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Current Topics.

Lord Dunedin.

A FEW DAYS ago this distinguished Law Lord celebrated his eighty-first birthday, and, despite this weight of years, it may truly be said of him that his mental eye has not become dim or his natural force abated. Scotland has been fortunate in the representatives she has sent from time to time to share in the judicial work of the House of Lords; the name of Lord WATSON is still one to conjure with, and the like may be said of Lord DUNEDIN whose width of view, soundness in law, and brilliancy of exposition attest his greatness in the sphere in which his life has been spent. Called to the Scots Bar as long ago as 1874, after a brilliant career at Harrow and Cambridge, he soon acquired an excellent practice, being greatly favoured in this matter by the fact that his father was a partner in a firm of Writers to the Signet having one of the largest practices in Edinburgh. After filling various minor offices, he in due time became successively Solicitor-General, Lord Advocate, Secretary for Scotland, and eventually, he was promoted to the highest judicial office in his native country, namely, that of Lord Justice-General and Lord President of the Court of Session, and received the dignity of a peerage. After five years as the head of the Court of Session, Lord DUNEDIN was made a Lord of Appeal in Ordinary, being the first person already a peer to be appointed to that position, and since 1913, he has taken a leading part in the judicial work of the House of Lords and the Judicial Committee of the Privy Council. In connexion with his long judicial services he told an amusing story to an American audience, during the past autumn, on the occasion of the visit of the English, Scottish and Irish lawyers to the United States. Speaking to an American lady who was curious to know what Lord DUNEDIN's duties were, the veteran judge explained these in some detail and added that he had been discharging them for so many years that most of his present colleagues had appeared before him. To this the lady made the somewhat startling observation: "How interesting! But I hope not for crime!" Recounting the incident, Lord DUNEDIN said that his friends Lord TOMLIN and Lord MACMILLAN—both of whom were with him on the visit to the United States—had been in low spirits ever since he repeated to them the lady's remark!

Art in the Law Courts.

UNLIKE THE Parliament Hall of Edinburgh, in which the members of the Scots Bar perambulate daily till their cases are called on in the adjoining courts, our Central Hall, and the whole building, are singularly bare of artistic decoration. The walls of the Parliament Hall are lined with portraits and statues of distinguished judges and advocates of the past, but, till now, little has been done to conceal the nakedness of the walls of the Central Hall or the various corridors of our Royal Courts of Justice. It is true that there are one or two statues, conspicuous among them being that of BLACKSTONE, presented not long ago by transatlantic admirers of his services in the common law, but there are few pictures save that representing QUEEN VICTORIA at the opening of the courts. Now, however, an interesting addition has been made to the adornment of the building by the presentation to the Bar Library of a portrait in oils of a seventeenth-century judge, believed to be Sir EDWARD HERBERT, who in 1687 was appointed Chief Justice of the Court of Common Pleas, representing him in his robe of scarlet and ermine with the historic "S.S." collar. The painting, which is attributed to Sir GODFREY KNELLER, has found a place, temporarily at all events, on the staircase leading up to the Bar Library, where it has been much admired.

Expenses of Subpœnaed Witness.

A SOLICITOR who had been subpœnaed to give evidence in a non-jury action before Mr. Justice MCCARDIE recently, raised the question of his expenses before taking the oath. After receiving the usual guinea and before the hearing of the action came on he had occasion to go to Paris. To comply with the subpœna he had returned by air, and he now wished to ask that his expenses in that connexion should be met. He suggested the sum of twelve guineas, and was willing to refer to an authority in support of his contention. The solicitors for the plaintiff in the case intimated that they would undertake to pay the expenses which he was allowed on taxation. The witness, said his lordship, was entitled to his fare from Paris; it was necessary to hold the scales evenly between the necessity of complying with the requirements of the subpœna and the witness being fairly rewarded for his trouble. His lordship directed that the witness was to have seven guineas. The witness then took the oath. There have, of course, been a number of cases dealing with a subpœnaed witness's expenses, but it may be useful to mention one or two salient features of the matter. Unless the reasonable expenses to and from the place of examination and of his stay there have been tendered to a subpœnaed witness he is not bound to appear and give evidence, and if an attachment has been issued against him it will be discharged. In *Brocas* v. *Lloyd* (1856), 4 W.R. 540; 26 L.J. Ch. 758, a solicitor living at Kington, in Herefordshire, 155 miles from London, was served with a subpœna to attend in London to give evidence. The three guineas which were tendered to him for expenses he refused, and required payment

of reasonable travelling expenses to, and living expenses in London. He offered to attend if the plaintiff's solicitor would pay him £6 on account before he left Kington, and give an undertaking to pay the further expenses consequent on the proposed visit to London. His request was not complied with and he did not attend. The then Master of the Rolls said that courts of law would not grant attachment if a witness disobeyed a subpœna unless his necessary expenses of going to and returning from the place of trial and of his stay there were tendered to him. Moreover, it is quite immaterial whether or not the witness has been sworn; if he has, he may still refuse to answer questions until his expenses have been tendered (*Working Men's Mutual Society, in re*, 30 W.R., 938; 21 Ch. D., 831). Professional witnesses, by which may be understood any witness whose testimony is required because of some specialised skill or knowledge as distinct from one who is called merely to depose to facts which he saw, are entitled, before they submit to examination, to demand compensation for loss of time at the rate of one guinea a day (*Clark* v. *Gill*, 2 W.R. 652; 23 L.J. Ch. 711). The ordinary witness cannot, of course, maintain an action for compensation for loss of time in attending. A subpœnaed witness who attends but is not required after all to give evidence, can claim his necessary expenses from the party who subpœnaed him (*Hallet* v. *Mears*, 13 East 15). Lastly, a witness is entitled to have reasonable travelling and sojourning expenses in accordance with his or her particular station in life (*Dixon* v. *Lee*, 1 C.M. and R., 645).

Stealing Fruit.

Although the days when a flaw in an indictment might result in the release of a dangerous criminal are happily past, the need for accuracy in charging persons with, or trying them for, any serious offence still remains, and is illustrated by a case from Kent. There one Percy Friend was convicted at the sessions of stealing apples from an orchard, and sentenced to three months' hard labour. The indictment appears to have been under s. 36 of the Larceny Act, 1861, relating to "any plant, root, fruit, or vegetable production growing in any garden, orchard, pleasure ground," etc. There was a suggestion that the apples taken had fallen from the trees, but the Chairman directed the jury that, if they had been stolen, the question whether they had fallen from their trees or still adhered to them was immaterial. On appeal, Avory, J., in giving the judgment of the Court quashing the conviction, ruled that apples which have fallen from trees are not growing, and that the direction to the jury on the charge preferred was therefore wrong in law. For fallen fruit, an indictment should have been framed under s. 2 of the Larceny Act, 1916, an "omnibus provision" as to the theft of anything not specially mentioned under that or other Acts. Before that Act, the theft of fruit, otherwise than in violation of s. 36 of the Act of 1861, was not larceny at common law, but s. 1 (3) brings in, with immaterial exception, everything which is of value and is the property of any person. It may be noted that the theft of fallen fruit under s. 2 of the later Act is a felony, punishable with the maximum of five years' penal servitude, whereas to steal growing fruit under the Act of 1861, is, as a first offence, misdemeanour punishable with the maximum of six months only. The reference to "property" in s. 1 (3) appears still to except blackberries, whether growing or fallen, from things capable of being stolen.

A Marriage Dowry Law Suit.

A curious and unusual dispute was brought to a close in Mr. Justice Maugham's court on Tuesday, 11th November, when his lordship delivered a reserved judgment in *Re Lloyds Bank Ltd.: Bouze* v. *Bouze*. The action was brought by a wife and her brother against the husband, and a declaration was asked for that a written agreement for the deposit of £4,000 at a branch of Lloyds Bank in the joint names of the husband and wife should be set aside, and an order made for the repayment of the £4,000 by the defendant to the plaintiffs. It appeared that the marriage of the husband and wife had been arranged through the instrumentality of a marriage broker. The husband was introduced to his prospective wife on 2nd May, 1929, and was accepted on 5th May. The agreement was drawn up and signed the next day, and the £4,000 was immediately placed on deposit at Lloyds Bank in the joint names of the future husband and wife. The first clause of the agreement provided that after the marriage the money was to be re-deposited at the same bank in the parties' joint names, using the wife's post-marriage name. The marriage took place on 16th June, 1929, but on 15th May, 1929, £1,000 was withdrawn from the joint deposit account by both parties for the purchase of a medical practice for the prospective husband, and on 5th June £2,350 was withdrawn. His lordship held that the agreement of 6th May must stand, as it was made in consideration of marriage, and that the £1,000 which had admittedly been withdrawn and used for the purpose of purchasing a medical practice for the future husband could not be successfully claimed. The wife, however, was entitled to equitable relief as regarded £2,000, being the amount withdrawn on 5th June, minus a sum of £350 withdrawn by consent for the expenses of the marriage. As the parties to the marriage had equal rights in respect of that sum under the terms of the agreement, his lordship held that if there was no chance of the parties coming together again, there should be judgment for the plaintiffs for £1,000 and costs, except so far as they had been increased by the claim to upset the agreement of 6th May, 1929.

The Public and the Sale of Worthless Shares.

In the case of *In re Broad Street Press, Ltd.* (*The Times*, 11th November), Maugham, J., in a judgment in which he made an order for the compulsory winding up of the company, let fall some observations which might well serve as a catechism to the over-credulous in financial matters. The company had carried on a business of selling shares, through the medium of canvassers all over the country, and of a paper called at first *The City News and Stock Exchange Observer*, and later *Finance*, and defrauded those whom it managed to attract by the "confidence" method of allowing them to gain on their first transaction and giving them valueless shares for moneys that they subsequently paid. Those responsible for the frauds disappeared when legal proceedings were taken against the company, and left the victims unable to do anything except ask for a compulsory order, and the law unable to do anything for them but make it. But the situation gave Maugham, J., the opportunity, which he used to the greatest possible advantage, of showing exactly where the trouble lies, always has lain, and always will lie, in such cases. Share pushers may push their wares with might and main; but, like manufacturers and vendors of goods far worthier of purchase, they cannot sell if none will buy. To the legal profession, if to no others, it may seem incredible that, notwithstanding revelation after revelation of the most palpable dishonesty—to say nothing of a certain similarity in the methods and psychology of these thieves—there are still any number of persons ready to be cajoled by speciousness, written or spoken, into putting their hands in their pockets or their signatures to cheques. To open the eyes of these people, and to make them, in the words of Maugham, J., "wise enough to put papers like *Finance* into the waste paper basket and to show canvassers who try to sell worthless shares with little courtesy to the door," is to put this type of wrongdoer out of business. But the enlightenment of the easily gullible is a task not to be achieved in a day. It will be materially helped if every such case as this is given the publicity with which Maugham, J. hoped it would meet; and public gratitude is due to the learned judge for the plain and forthright words in which he has added yet one more to the efforts of the bench to show the public that it is itself the only power that can end one of the greatest evils from which it suffers.

Criminal Law and Practice.

SEPARATION ORDERS.—Magistrates dealing with matrimonial cases under the Summary Jurisdiction (Separation and Maintenance) Acts have wide powers under the statutes, but these must be exercised with proper regard to decisions of the High Court, and the principles laid down by learned judges need to be kept constantly in mind.

Upon any application under the Acts by a married woman, the court may make an order embodying a non-cohabitation clause (commonly called a separation order), an order as to custody of children of the marriage, an order as to alimony, and an order as to costs. It has, however, been laid down many times that a separation order should never be made unless the safety of the wife requires it. (See, for example, *Dodd* v. *Dodd* [1906] P. 189; 70 J.P. 163, and *Harriman* v. *Harriman* [1909] P. 123; 73 J.P. 193.) It therefore follows that a non-cohabitation clause is rarely inserted save when the cause of complaint is persistent cruelty or habitual drunkenness.

At the same time, most maintenance orders made by magistrates are made when the parties are actually separated, or, at all events, contemplate separation, and s. 1 (4) of the Act of 1925 makes orders unenforceable so long as the parties reside together. It would therefore seem that, apart from authority, a bench might be disposed to give effect to the wishes of the parties if they desired a separation order and an order determining who was to have the custody of the children.

In a recent appeal from justices, a Divisional Court, consisting of the President and Bateson, J., decided (in *Smith* v. *Smith*, 15th October) to allow an order for maintenance to stand, but set aside orders of separation and as to custody of children where the wife's application was made on the ground of wilful neglect to maintain. It was said that in her summons the wife had asked only for maintenance, and the learned President said that the justices had "assumed one of the most difficult jurisdictions which could be exercised, that of dealing with the matrimonial relations of two parties who had differences. They decreed a judicial separation and broke up the family without being asked for such orders. They gave the custody of one child to the father and of the other to the mother. It was only necessary to call attention to an occurrence of that kind to see what a mistaken proceeding it was and how prolific of mischief it could be in the marital relations of people resorting to provincial justices in their limited jurisdiction."

Justices and their clerks will have to remember that at all events, when the wife's safety is not endangered, there should be no separation clause, and, apparently, that they should not make an order for the custody of children where the only question is one of maintenance; and, in particular, that they should deal with nothing but maintenance when that is all the wife asks.

POLICE AND WITNESSES.—In our issue of 18th October, at p. 681, we printed a note under the above heading.

We have since received from the solicitor who appeared in the case the letter which appears under the heading "Correspondence" in this issue.

As our correspondent assumes, we did in fact base our observations on a newspaper report; and we are glad to give prominence to his fuller report of what took place.

We certainly think it very hard upon the defence if, when they ask a witness for a statement, he replies that he had given his statement to the police, and thus the witness is not produced. Further, if the prosecution has closed its case and has therefore, presumably, made use of all the witnesses it desires to call, there would seem to be no reason for withholding the names of any other witnesses known to be available. It is certainly, in our opinion, the duty of every prosecuting authority to facilitate the calling of all witnesses. However, there may be some explanation that does not occur to us; cases often seem unanswerable until they are answered.

Section 11 of the Law of Property Act, 1925, and the Yorkshire Registries Acts.

MANY difficult questions have arisen as to the effect of certain of the provisions in the Law of Property Act, 1925 (referred to afterwards as "the new Act"), on the Yorkshire Registries Acts of 1884 and 1885, and the practice thereunder. But the section of the new Act which has caused the greatest difficulty is s. 11. To enable this section to be properly considered it seems necessary to give the exact wording thereof. It is as follows:—

> "11.—(1) It shall not be necessary to register a memorial of any instrument made after the commencement of this Act in any local deeds registry unless the instrument operates to transfer or create a legal estate, or to create a charge thereon by way of legal mortgage; nor shall the registration of a memorial of any instrument not required to be registered affect any priority.
>
> (2) Probates and letters of administration shall be treated as instruments capable of transferring a legal estate to personal representatives.
>
> (3) Memorials of all instruments capable of transferring or creating a legal estate or charge by way of legal mortgage, may, when so operating, be registered."

The doubts as to the proper construction of the section are caused by (i) the fact that the Yorkshire Registries Acts have not been repealed, and (ii) certain expressions of uncertain meaning in the section itself. In the very first line of the section are words raising doubts, namely, "It shall not be *necessary* to register . . . ." Do these words mean that although it is not *necessary* to register any other class of instrument than those referred to in the section, that other documents dealing only with the equitable estate *may be* registered, provided they are allowed to be registered by the Yorkshire Registries Acts? It is true that the sub-section goes on to provide that the registration of an instrument not required to be registered shall not affect any priority. But this does not affect the question as to whether or not a person has the right to require registration of such an equitable instrument. Then, the words at the end of sub-s. (1)—"nor shall the registration of a memorial of any instrument not required to be registered . . ."—do not they imply the possibility of registration of an instrument not required to be registered? And, if the possibility, the right of a person to require registration of such an instrument?

The instruments which the writer has in mind, when referring to instruments not required by s. 11 to be registered, are instruments creating or transferring equitable interests which fall within the definition of "assurance" in s. 3 of the Yorkshire Registries Act, 1884, and which, by virtue of such Act, were certainly capable of registration before 1926. Particularly, a memorandum accompanying a deposit of deeds, and debentures charging land the property of a company and not passing any legal estate.

As a matter of fact, the writer knows from his own experience that the registrars of the three Ridings do not refuse to accept for registration such instruments affecting equitable interests only. But the writer can go further, for there is a statement in a book which has been published, which more than confirms this. The writer feels justified in quoting from this most useful book, written by Mr. T. R. FLYNN, on "Registration in Yorkshire." Mr. FLYNN says in his preface that his work is based upon his experience of twenty years' service in the North Riding Registry, and he refers to suggestions as to the framing of his work given by the registrar of his Riding and to assistance regarding the practice in the West Riding given by the registrar of that Riding. It may be taken, therefore, that he is fully qualified to state what the practice in the three Ridings is. He says, on p. 4—"In view of the uncertainty surrounding the

effect of s. 11 the opinion has been expressed that registration in the Yorkshire Deeds Registries of instruments affecting equitable interests only might still be useful, and until some of the obscurities of the new legislation have been cleared by decisions of the courts, those in authority at the registries consider there can be no closing of the register to this class of instrument. The authorities are not unmindful of the possibility of becoming involved in litigation should they refuse to register a prior equitable mortgage, and the equitable mortgagee lost his priority owing to the registration of a subsequent legal mortgage. Hence it is that for some years to come the slogan may well be, 'When in doubt register.'"

If this view is correct, then the point arises as to whether a solicitor is not equally concerned to see that such instruments dealing with equitable instruments should be registered, notwithstanding that s. 11 specifically states that registration thereof shall not be necessary.

To clear the ground before considering the wisdom or otherwise of registering certain dealings with equitable interests, it should be noted that s. 11 only deals with registration of instruments which have to be registered by *memorial*. But there are several classes of instruments which under the Yorkshire Registry Act of 1884 have to be registered in some other manner than by memorial. Section 11 clearly does not apply to these. For instance, a caveat. A caveat is certainly not covered by s. 11, and is not a land charge. It is thought, therefore, that a caveat should still be registered in the Yorkshire Registries, as was done before 1926. Another instance is an affidavit of intestacy. Whether or not, in view of the fact that estates now pass directly to personal representatives on a death, and that "heirship," except in a few instances, has been abolished, it is now somewhat doubtful as to the utility of such registration, is not relevant to the question we are considering. The point is that the registrars are still prepared to accept same for registration, if tendered for that purpose.

There appear to be two ways of construing s. 11. The one way is that adopted by the registrars, the result of which is that they consider they should not refuse to accept for registration various instruments dealing with equitable interests, and which up to the end of 1925 they accepted without question as being authorised to be registered by the 1884 Yorkshire Registries Act. The other way, and the way which the writer respectfully suggests, is the way intended by the framers of the Act, and carried out, is to construe the section as a definite amendment of the Yorkshire Registries Acts, having the effect of altering such Acts, to the extent of doing away altogether with registration in such registries of instruments by memorial which do not operate to transfer or create a legal estate or create a charge thereon by way of legal mortgage. And first, it is suggested that the wording of sub-s. (3) of the section rather favours that view. The words referred to are "Memorials of all instruments capable of transferring or creating a legal estate . . . *may*, when so operating, be registered." Rather suggesting that if such instruments have not this effect, then they are not registrable. A further argument can be based on the wording of the Land Registry (Middlesex Deeds) Rules, 1926, bearing in mind that everything in s. 11 relating to the Middlesex Registry equally applies to the Yorkshire Registries. At the beginning of these rules we find, after a reference to the Middlesex Act, 1708, and the Land Registry (Middlesex Deeds) Act, 1891, the words "as amended by the Law of Property Act, 1925 . . ." And also in r. 1 (1), after a reference to the above-mentioned Acts come the words "and both Acts as amended by the Law of Property Act, 1925, are referred to as 'the Middlesex Deeds Acts.'" Further, there is a note to such rules in "Wolstenholme and Cherry," 11th ed., vol. 2, p. 898, as follows: "see L.P.A., s. 11."

A still further argument can be based on the provision in sub-s. (2) that all letters of administration are to be treated as instruments capable of transferring a legal estate to personal representatives. Now, there is no provision in the Yorkshire Registries Act, 1884, for registration of letters of administration without will annexed. It is believed the registrars admit this. They do, in fact, accept such letters of administration for registration, but on the ground that they do so in response to a large section of the legal profession, as providing a link in the title to property. But if the true manner of construing s. 11 is that it is an *amendment* of the Yorkshire Acts, all difficulty vanishes.

As to whether a memorandum accompanying a deposit of deeds should be registered when affecting land in Yorkshire, there seems some confusion of thought. It is stated in the new edition of "Prideaux" that as such a document only creates an equitable interest, a memorial thereof cannot be registered, and it should therefore be protected by registration as a land charge. But by s. 7 of the 1884 Yorkshire Registries Act, such a document had never to be registered by memorial, but at full length and by means of a document called "a memorandum," a quite different thing to a memorial. Consequently s. 11 does not apply to such a document. It can still therefore be registered under the direct provision of s. 7 of the Yorkshire Act, and, moreover, it is important that it should be so registered, because s. 7 provides that no such charge shall have any effect or priority as against any assurance for valuable consideration which may be registered under the Act, unless and until such memorandum has been so registered. Such document cannot be registered as an equitable charge, as it is specially provided by the Land Charges Act that a mortgage charge or an equitable charge secured by *a deposit of deeds* has not to be registered as a land charge (see Land Charges Act, s. 10, class C (i) (iii); see also s. 13 of the new Act).

It has been suggested that if the memorandum of deposit of deeds contains a covenant or agreement to execute a legal mortgage if and when called upon, it should be registered as an "estate contract," but this does not seem necessary for the protection of the mortgagee so long as he holds the deeds.

But an *equitable* mortgage affecting land in Yorkshire, not protected by a deposit of documents, must be registered as a land charge in the particular Yorkshire Registry. As regards a *legal* mortgage of land wholly in Yorkshire, unaccompanied by the possession of the deeds known as a "*puisne mortgage*," no difficulty arises, as being a dealing with the legal estate it clearly has to be registered by memorial under s. 11, and such registration makes it unnecessary to register the deed as a land charge. Though, when the land is situate elsewhere than in Yorkshire or Middlesex, such a document would have to be registered as a land charge at the Land Registry.

There is another case which, in practice, is the subject of different opinions, namely, as to whether debentures charging land of a company by way of a floating charge, and not passing any legal estate, should, in addition to being registered under the Companies Act, be registered in the Yorkshire Registries. The writer is not in a position to go so far as to say that the registrars consider these documents must be registered, but he is able to say that they will accept same for registration if tendered for that purpose. Some solicitors contend that it is necessary to so register same. The writer takes the view that such registration is not necessary. First, such debentures do not create or transfer a legal estate, and are therefore not within the words of s. 11. Secondly, they are not registrable as land charges, for it is expressly provided by s. 10 (5) of the Land Charges Act that: "In the case of a land charge for securing money, created by a company, registration under s. 93 of the Companies (Consolidation) Act, 1908 [now replaced by s. 79 of the Companies Act, 1929], shall be sufficient in place of registration under this Act, and shall have effect as if the land charge had been registered under this Act." In spite of this it is understood that certain solicitors contend that such a document amounts to "a general equitable charge" within sub-s. (6) of s. 10 of the Land

Charges Act, as amended by the 1926 Amendment Act, and should therefore be registered. The answer to this is that the words "registration under this Act" in sub-s. (5) of s. 10 of the Land Charges Act cover both registration of land charges at the Land Registry and at the Yorkshire Registries. Indeed, it may be said that the very object of sub-s. (5) is to avoid double registration of land charges. By registration at the Companies Register Office all the three essential points which have to be provided for are satisfied, namely: (i) registration; (ii) the gaining of priority; and (iii) the giving of notice to all the world. As regards notice to all persons and for all purposes, s. 198 (1) of the new Act refers to registration at the Land Registry and *elsewhere* as being sufficient. The word "*elsewhere*" refers to registration in a local registry.

It was expected that new rules would be issued under the Yorkshire Registries Acts, though it is not clear that some of the points which require alteration could be altered by anything less than by an Act. For instance, it is very desirable that the definition of "assurance" in s. 3 of the 1884 Act should be revoked and the definition in the new Act substituted therefor, except so far as leases are concerned. As regards leases, as we know, under the new Act a "term of years absolute" may include a term for less than a year, and even a weekly tenancy, and, moreover, it is now a legal estate. Under s. 28 of the 1884 Yorkshire Registries Act, a lease for a period of twenty-one years or less, where accompanied by actual possession, cannot be registered. It is understood that the officials at the three Yorkshire Registries are of opinion that such a lease should still not be accepted for registration, and that although a term of years has become one of the two possible estates in land capable of being created at law, nothing in the new Act has in any way altered or abrogated s. 28 of the 1884 Yorkshire Registries Act. L. E. E.

Company Law and Practice.

LIII.

EXERCISE OF VOTING RIGHTS.—III.

THIS week we will consider the voting at class meetings, and for this purpose it is not necessary to distinguish between meetings of classes of members of a company and meetings of debenture-holders, noteholders or bondholders. The general principle here to be observed, seems to be that a member of a class in exercising a right of voting conferred on him as a member of that class must vote in such a way as to conform with the best interests of the class as a whole.

There are two cases which may properly be examined in this connection, one a judgment of PARKER, J., as he then was, and the other a comparatively recent decision of the Judicial Committee. The first is *Goodfellow* v. *Nelson Line (Liverpool) Limited* [1912] 2 Ch. 324. Here a meeting was called for the purpose of passing a resolution to vary (under a power contained in the trust deed) the rights of debenture-holders. A large block of the debentures was held by a certain corporation, referred to as the trust; the trust was also one of the trustees of the trust deed for securing the debentures. The proposed variation would have affected adversely the financial position of the trust as guarantors of a portion of the debentures, because as such they were entitled to certain payments in the nature of premiums, which would have ceased under the new arrangement. Accordingly, payments were to be made to the trust to induce it to come into this scheme, and this fact was disclosed in the notice summoning the meeting of debenture-holders. The resolution for the adoption of the scheme was passed by the requisite majority, but only by reason of the votes of the trust, which were given in favour of the scheme.

A debenture-holder thereupon took proceedings to have it declared that the resolution was not binding upon her, contending that the payments to the trust were in the nature of a bribe, and that therefore the resolution was not binding upon her. But PARKER, J., held that there was no bribery, and dismissed the action. In one passage (at p. 333) he deals with the question of voting at class meetings in these words: "The powers conferred by the trust deed on a majority of the debenture-holders must, of course, be exercised *bona fide*, and the court can no doubt interfere to prevent unfairness or oppression, but, subject to this, each debenture-holder may vote with regard to his individual interests, though these interests may be peculiar to himself and not shared by other debenture-holders." Before commenting further on this passage, we will proceed to an examination of the other case in point, *British America Nickel Corporation Limited* v. *O'Brien* [1927] A.C. 369.

In this case, the vote of a particular bondholder in favour of a scheme was obtained by promising to give him a very large block of stock in the company, but this promise was not disclosed when the scheme was under consideration. The Judicial Committee found that the resolution was invalid, and distinguished, but approved, *Goodfellow* v. *Nelson Line, supra*.

The judgment, delivered by Lord HALDANE, is of much interest, and a somewhat lengthy quotation is desirable. "It has been suggested that the decision in these two cases on the last point (*North-West Transportation Co.* v. *Beatty* and *Burland* v. *Earle*, referred to previously in this column, deciding that interested shareholders may vote) is difficult to reconcile with the restriction already referred to, where the power is conferred, not on shareholders generally, but on a special class, say, of debenture-holders, where a majority, in exercising a power to modify the rights of a minority, must exercise that power in the interests of the class as a whole . . . But their lordships do not think that there is any real difficulty in combining the principle that while usually a holder of shares or debentures may vote as his interest directs, he is subject to the further principle that where his vote is conferred on him as a member of a class he must conform to the interest of the class itself when seeking to exercise the power conferred on him in his capacity of being a member. The second principle is a negative one, one which puts a restriction on the completeness of freedom under the first, without excluding such freedom wholly."

The judgment in *Goodfellow* v. *Nelson Line, supra*, is then referred to and approved, but it is not without significance, especially when coming from the mouth of Lord HALDANE, that it is stated that the distinction may prove to be a fine one. The facts of the case are subsequently considered, and then, at p. 378, the following passage occurs: "No doubt he (i.e., the bondholder who had received this promise) was entitled in giving his vote to consider his own interests. But as that vote had come to him as a member of a class, he was bound to exercise it with the interests of the class itself kept in view as dominant."

Comparing these two cases, one can see that the facts are different in one very material particular: in the first case the payment was openly made, and was disclosed; in the second case it was secret and undisclosed, and this of itself is sufficient to warrant a different conclusion being arrived at. It is not so easy to reconcile Lord HALDANE's two principles, or at any rate to apply them both at once, as was apparently in his lordship's mind, as appears from the last quotation; and it seems that PARKER, J., only recognised, or at any rate only stated, the first of the two principles, as appears from the passage quoted above from his judgment—the qualification there set out as to *bona fide* voting referring apparently to the principle of *Menier* v. *Hooper's Telegraph Works*, mentioned last week in this column. But PARKER, J., was considering a case which properly came within the second principle, if the *British America Case* be correct, and though he did not treat it as such, his judgment was approved.

Perhaps one can best leave the matter where it stands, with the observation that where this question arises a small amount of practice is worth a great deal of theory, and in the end it may be that it really resolves itself into a question of degree.

(*To be continued.*)

A Conveyancer's Diary.

What are "Usual Covenants" in a Lease?

I left off last week having referred to the leading case of *Hampshire* v. *Wickens* (1878), 7 Ch. D. 555, where it was laid down what the usual covenants in a lease of a dwelling-house were at that time, and to one of the latest cases, *Allen* v. *Smith* [1924] 2 Ch. 309, in which it was held that a covenant that the lessee would pay the lessor's solicitor's and surveyor's charges of or incidental to a notice under s. 14 of the Conveyancing Act, 1881, was not a usual covenant.

It is worth while considering some of the other authorities.

In re Lander and Bayley's Contract [1892] 3 Ch. 41, an agreement for the lease of a public-house provided for a term of three years, with an option to renew for another seven years, and for possession to be given within one month from the date of the agreement. There was no reference in the agreement to the covenants to be inserted in the lease. The lessor insisted upon covenants by the lessee (1) to reside on the premises and personally conduct the business; (2) not to assign without consent; and that the proviso for re-entry should extend to the breach of any covenant.

It was held that covenants (1) and (2) could not be insisted upon as usual covenants, and that the fact that the subject-matter of the lease was a public-house made no difference. It was also held that the proviso for re-entry must be limited to the case of non-payment of rent.

I do not know how far a covenant to reside and not to assign without licence might in these days be considered usual in a lease of a public-house. It is to be noted, however, that in some of the earlier authorities (followed in this case) it seems to have been laid down that the nature of the property made no difference. Thus, in *Henderson* v. *Hay* (1792), 3 Bro. C.C. 632, where the agreement was to let a public-house upon the "common and usual covenants," Lord Thurlow held that a covenant not to assign was not such a covenant, and he said that, "although the covenant not to assign without licence might be a very usual one, as I believe it is, where a brewer or vintner let a public-house, that could not make it a common covenant." Again, in *Church* v. *Brown* (1808), 15 Ves. 258, where there was an agreement for the lease of a warehouse, Lord Eldon held that a similar covenant was not usual and expressed the view that the nature of the property was not a material consideration. He said "Is it then to depend upon the nature of the property? Is an agreement for the lease of a public-house where nothing more is expressed, to be carried into execution in a different manner from an agreement as to property of another species; with regard to which, though there may not be the same reason, the landlord may have reasons operating upon him just as powerfully, for requiring this restraint?" And he answered the question in the negative.

It will be remembered that in *Hampshire* v. *Wickins*, the covenant objected to was a covenant not to assign, but the question as to whether the nature of the property was an element to be considered was not discussed.

It is interesting to compare in this connexion what was said by Maugham, J., in *Flexman* v. *Corbett* [1930] 1 Ch. 672: "I would add that in my view it is a complete mistake to suppose that the usual covenants in regard to a lease, for instance, of a country house, are necessarily usual covenants in regard to the lease of a London residence, and I would add that it seems to me that it may very well be that what is usual in Mayfair or Bayswater is not usual at all in some other part of London, such, for instance, as Whitechapel."

Now, I cannot think that it is a material factor to consider the locality of the property and not the nature of the property itself, although according to the authorities that would appear to be the result.

So far I have been dealing only with the covenants. Another important point raised in *Flexman* v. *Corbett* was whether a proviso for re-entry for breach of covenant is a usual provision.

The older authorities on this point are very clear that such a proviso is not usual except in relation to a breach of covenant for payment of rent.

In *Hodgkinson* v. *Crowe* (1875), 10 Ch. 622, James, L.J., expressed a very strong view with regard to such a proviso; he said: "I not only do not consider it a proper and reasonable thing to introduce, but to my mind it is a most odious stipulation, it is offensive and it is oppressive beyond measure." In commenting upon that passage, Maugham, J., pointed out that at the date of the decision the court was not in a position to grant relief for breaches of covenant.

The question as to whether the power to grant relief contained in s. 14 of the Conveyancing Act, 1881, had made any difference was raised and considered in *Re Anderton and Milner's Contract* (1890), 45 Ch. D. 476.

In that case there was an agreement to grant a lease "subject to the usual covenants to insure from loss by fire, repair, and pay rent and all outgoings that may be charged on the property and ground." The lessor sought to have inserted in the lease a proviso for re-entry on breach of any of the covenants in the lease, and it was contended that having regard to the provisions of s. 14 of the Conveyancing Act, 1881, *Hodgkinson* v. *Crowe* was no longer an authority. Chitty, J., however, decided otherwise, but it is plain that he considered that such a proviso might in course of time become a usual one.

In re Lander and Bayley's Contract (*supra*), the same point was taken with the same result.

Maugham, J., left the question undecided. After referring to the cases which I have mentioned, he said: "I do not think that the evidence in this case is sufficient to enable me to express the opinion that the proviso for re-entry is in the usual form, although I think that even with regard to the proviso for re-entry, the matter is one which might usefully be reconsidered in the light of modern evidence at some future time."

It seems therefore to be uncertain whether a proviso of that kind extending to all breaches of covenant can be considered usual, but I suppose that most readers will agree that it certainly is for all practical purposes "usual," and I think that it will be so held when the point comes to be decided.

In conclusion there is an important passage in the judgment of Maugham, J., regarding the nature of the evidence admissible in such cases to prove what are or are not usual covenants. The learned judge said: "I think it right to express my opinion, after having heard and considered all the numerous authorities which have been cited to me, that the question whether particular covenants are usual covenants is a question of fact and that the decision of the court on that point must depend upon the admissible evidence given before the court in relation to that question. I think that it is proper to take evidence of conveyancers and others familiar with the practice in reference to leases and that it is also permissible to examine books of precedents. It is permissible to obtain evidence with regard to the practice in the particular district in which the premises in question are situated."

BOROUGH OF WALSALL.

The next General Quarter Sessions of the Peace for the Borough of Walsall will be held at the Guildhall, Walsall, on Thursday, the 4th December, at 10 o'clock in the forenoon.

Landlord and Tenant Notebook.

Repairs, etc., to the satisfaction of a Surveyor.

Parties sometimes attempt to avoid the possibility of argument as to the standard of repair by providing for supervision by and/or approval of a surveyor. It is true that differences of opinion as to the meaning of "good and tenantable" have led to a great deal of litigation in the past; more recent decisions such as *Anstruther-Gough-Calthorpe* v. *McOscar* [1924] 1 K.B. 716; C.A., explaining the older authorities, have perhaps to some extent clarified the position; nevertheless, if the landlord is able to engage a surveyor, it may be worth his while to insist that the standard of repair be measured by professional opinion. At the same time a covenant providing for repairs to be done "to the satisfaction of the surveyor" will not expose the tenant to the risk of arbitrary decisions or having to comply with the demands of one who may be unduly fastidious; in *Doe d. Baker* v. *Jones* (1848), 2 Car. & Kir. 743, a forfeiture action, Pollock, C.B., held that the repairs were done if the surveyor ought to have been satisfied, and the case was referred accordingly. Similarly, in *Dallman* v. *King* (1837), 4 Bing. N.C. 105, where there was provision for approval, it was said that it was not intended that approval should be capriciously withheld.

In drafting such a covenant attention should be paid to the consideration whether the approval, etc., is to be a condition precedent to compliance, or a mere qualification. In the last-mentioned case, the wording was elaborate; the tenant was to spend not less than £200 in building, altering and repair work during the first year of the lease, "such erection and alterations or repairs to be inspected and approved of" by the landlord and "done in a substantial manner." He was to be allowed the agreed amount off the first year's rent. When he tendered the difference, the landlord, who had not "approved of" the work done, assessed it at a lower figure, and distrained for the balance. In the action for excessive distress which followed, it was held that the gist of the covenant was that the work should be substantial; approval was not a condition precedent.

Again, in *Jones* v. *Cannock* (1850), 5 Exch. 713; (1852), 3 H.L.Ca. 700, there was a covenant by the tenant to erect buildings, "the whole of which were to be left to the superintendence of" the landlord and the tenant's son. This clause, being for the benefit of both parties, was held to amount neither to a condition precedent nor to a condition concurrent; the arrangement was one of which either could avail himself if he thought fit.

If it is in fact desired to make approval a condition, elaborate language had better be avoided. The covenant in *Coombe* v. *Greene* (1843), 11 M. & W. 480, which was to spend £100 in improvements and additions "under the direction of and with the approbation of some competent surveyor to be named by or on the part of" the landlord, was held to have this effect.

Such a covenant does, of course, imply an obligation on the part of the landlord to appoint a surveyor. Omission to make the appointment led to the breakdown of a forfeiture case, *Hunt* v. *Bishop* (1853), 8 Exch. 675, 679, in which a ninety-nine years' lease contained a covenant "to complete and finish in a good and workmanlike manner . . . under the direction and to the satisfaction of the surveyor of" the said landlord. As the court pointed out, no surveyor having been appointed, no direction could be given or satisfaction expressed.

As to signifying approval, it seems advisable, having regard to the object mentioned at the commencement of the article, to specify some particular mode, a certificate or other writing. Landlord and tenant would then be in a position similar to that of the parties to a building contract as regards payment, the function of the surveyor in the one case being analogous to that of the architect in the other. In *Dallman* v. *King*, *supra*, the arguments advanced on the landlord's behalf were based mainly on a building case, *Morgan* v. *Birnie* (1833), 9 Bing. 672, in which the architect had checked accounts but not testified approval by certificates, as the contract provided; and though the owner had never raised the objection, it was held that the certificate was a condition precedent. No reason appears why approval was not signified; but if landlord and tenant do make a surveyor a quasi-arbitrator in questions relating to compliance with repairing covenants, more recent authority seems to show that advantage cannot be taken of his inactivity: see *Kellett* v. *New Mills U.D.C.* (1900), in "Hudson on Building Contracts," vol. II, p. 298.

Our County Court Letter.

PROHIBITED ACTS IN MINES AND WORKMEN'S COMPENSATION.

In *Taylor* v. *Cannop Coal Company Limited*, recently heard at Monmouth County Court, the applicant had been walking along a dipple, or underground roadway, while going from his working place to the bottom of the shaft before entering the cage. In so doing he had been struck in the back by a journey of trams, and had sustained permanent incapacity, but the respondents contended that the accident did not arise out of or in the course of the employment. The applicant admitted that a notice stated, "No unauthorised men are allowed to travel this dipple," and that a colliery official had pointed out that he would be prosecuted if the applicant were killed there. On the other hand about thirty-six men had used the dipple, as the authorised route was only 18 inches wide and under 2 feet high in places, and it was necessary to crawl through mud. Rather than get wet through, the applicant therefore took the risk of being hit, but (although he had seen the rope moving) the noise of electric pumps had prevented him from hearing the trucks. The respondent's manager denied that there was any connivance at the use of the dipple, and stated that he would not authorise any men to travel on a haulage road, except after working hours when the haulage was not in motion. It was therefore submitted that the accident was due to men leaving their work before time. His Honour Judge L. C. Thomas observed that the manager's evidence was confirmed by the witnesses for the applicant, as the men were in the habit of leaving before the haulage was stopped. They had been warned that this breach of regulations might involve a prosecution for the manager and no compensation for injuries, and the purpose of the warning had been to prevent a prohibited act, which was known to be dangerous. Judgment was therefore given for the respondents, with costs.

No question arose in the above case of the time limit below ground, and therefore an element was missing which (even if the applicant had been killed) would have distinguished the case from *Edwards* v. *Gwauncaegurwen Colliery Company Limited* (1928), 20 B.W.C.C. 75. In that case two miners had been killed and one injured by the overturning of a train of tubs in which they were travelling from the coal face to the shaft. To enable the men to leave the pit during the permitted shift of seven hours, the respondents had provided a spake, or special train of trucks with seats, but this was not being used at the time of the accident, as the men had saved time by travelling on the ordinary tubs. It was held by His Honour Deputy Judge Hugh Jones, K.C., at Ammanford County Court, that the accident had occurred by a contravention of a statutory prohibition, and judgment was therefore given for the respondents. In the Court of Appeal it was pointed out by Lord Hanworth, M.R., that it was important to the respondents that the applicants should reach the surface by a certain time, and therefore (in spite of the statutory prohibition) they were acting in the sphere of their employment when the accident occurred within the Workmen's Compensation Act, 1925, s. 1 (1). The result

was that the widows of the deceased were entitled to compensation under s. 1 (2), but the man who was only slightly injured had no claim. The present Lord Atkin and Lord Justice Lawrence concurred.

On the other hand the failure to enforce a prohibition enabled the workman to succeed in *Williams* v. *Cleeves Western Valleys Anthracite Collieries Limited* (1925), 17 B.W.C.C. 97. The applicant was a "repairer," and, while conveying timber by tram, he caught his elbow against the roof. Liability for the consequent injury was disputed on the ground that riding on tubs was prohibited, and that the applicant was not a "rider," or person entitled to travel under the Coal Mines Act, 1911, s. 43 (2). His Honour Deputy Judge Samson, K.C., held, at Llanelly County Court, that the applicant had ridden to save the effort of walking, and therefore (as efforts had been made to stop the practice) he was not entitled to compensation. The Court of Appeal reversed this decision on the grounds stated by Sir Edward Pollock, M.R. (as he then was), viz., that the applicant's duties involved detaching or attaching the tubs conveying his timber, and therefore he was entitled to ride under s. 43 (2), *supra*. The present Lord Atkin and Lord Justice Sargant concurred, and the court also held that in any event there was evidence that the prohibition against riding was not strictly enforced. The case was therefore remitted for compensation to be assessed.

Practice Notes.

AMUSEMENT CATERERS AND AUTOMATIC MACHINES.

The proposition that it is impossible to gamble on a certainty found no favour in the Court of Criminal Appeal in the recent case of *Rex* v. *Brennand and Others*. The appellants had been bound over for offences under the Betting and Gaming Acts in reference to a machine called the Little Stockbroker, which contained no element of chance or lottery and did not compete with the player. The machine in fact made a fixed charge of one penny for nine games, which consisted of buying for one penny the dividends (varying from 2d. to 6d.) on various commodity markets indicated on a moving disc. This scheme made no allowance for the impatience of human nature, however, as it was necessary to count back five spaces on the dial to ascertain the next result. The evidence was that at Blackpool people crowded round the machine, and that very few read the instructions, being content to insert their pennies upon the chance of a favourable result. Mr. Justice Avory observed that the issue was not whether the machine was unlawful or a gaming machine, but whether it had been used by the defendant for the purpose of betting or gaming with persons resorting to the premises. This was a question of law, which had been rightly decided in favour of the prosecution by the chairman of quarter sessions, who had left to the jury the question of fact whether the public were invited to and had congregated on the defendant's premises for the prohibited purpose. The conviction was therefore not due to misdirection, and Mr. Justice Swift and Mr. Justice Acton concurred in dismissing the appeal. See a Current Topic under the above title in our issue of the 30th August, 1930.

In Lighter Vein.

The Week's Anniversary.

On the 9th November, 1673, Anthony Ashley Cooper, Earl of Shaftesbury, was removed from the office of Chancellor, which the instability of his character made him unfit to hold.

He adorned the Bench in an unusual sense, for, despising the formalities of the legal profession, he sat, not in grave judicial robes, but "in an ash-coloured gown, silver-laced, and full-ribboned pantaloons displayed, without any black at all in his garb."

Since his tenure of the Great Seal lasted less than a year, it is impossible to measure truly his qualities as a judge. While Charles II's estimate of his Chancellor as one who knew "more law than all his judges and was possessed of more divinity than all his bishops," seems extravagant, it cannot be more so than the condemnations of his detractors.

Treacherous and unstable as a politician (he was nicknamed "Shiftesbury"), his whole career was of a piece with his successive betrayals of Charles I and of the Commonwealth.

> "For close designs and crooked counsels fit,
> Sagacious, bold and turbulent of wit;
> Restless, unfixed in principles and place,
> In power unpleased, impatient of disgrace."

His talents were wasted, but the law owes him one monument—the Habeas Corpus Act, passed by his means.

Nothing Like the Truth.

Once more McCardie, J., has sounded "to horse." The hunt is up and this time perjury is the quarry, but it is a far cry to the final kill.

Judge Cluer, placed a little lower than the angels of the High Court of Justice, views the matter with more philosophic resignation. "If there were no such thing as a liar," he said a short time ago, "I should have nothing to do and be on the dole."

It is many years now since Crispe, K.C., characterised the Divorce Court as the Supreme Court of Lies. It is still longer since Lord Bramwell made his famous classification of perverters of truth into "liars, damned liars and expert witnesses," subsequently adding in a supreme class all by himself "my brother Frederick"—a well-known expert witness in engineering cases.

At any rate, addressed to a gathering of medical men, most of whom will doubtless sooner or later enter the witness-box professionally, McCardie, J.'s lecture on "Truth" was well calculated to show what justice expects.

The Light that Failed.

Not often do the lights in their fuses fight in an action as they did recently when counsel's argument, as to the unreliability of electricity, was accidentally confirmed by the extinction of all the lights in court.

Generally, counsel himself must turn such stray occurrences to account and point a moral. On one dramatic occasion Coleridge, the future Chief Justice, was defending a man on a capital charge, when the lights failed. They were quickly restored, and he continued: "Gentlemen, you have seen how suddenly the light went out, how quickly it has been restored. It is in your power to extinguish the prisoner's life, but remember, if you do so, it cannot under any circumstances be replaced."

On a different occasion the return of light was more unfortunate than the sudden darkness which preceded it during an official banquet in the time of the Fenian outrages, for it revealed one of Her Majesty's judges emerging from a retreat under the table.

The Erudite Feminine.

Overheard in a West-End restaurant one evening recently: "But, my dear, you are *quite* fallacious, *all* barristers *have* to take silk *before* they are called to the Bar, haven't they, Tony?" (Response unfortunately missed.)

SOLICITOR-GENERAL TO BE GUEST OF FORMER COLLEAGUES.

The Hon. Sir Richard Stafford Cripps, K.C., the new Solicitor-General, is to be entertained at a dinner at Inner Temple Hall on 12th December by his old colleagues of the Oxford Bar mess.

Early next month, also, the Common Law Bar are privately entertaining Sir W. Ellis Hume-Williams, K.C., to mark his coming retirement from private practice at the Bar. Sir Ellis, who is a Bencher of the Middle Temple, is continuing his office as Recorder of Norwich.

Correspondence.

The Preservation of Records.

Sir,—The new development of the British Record Society, which has added to its function of the printing of records the preservation of them—in many ways a far more important duty—is of first rate interest to all lawyers from several points of view.

The idea behind the proposal is, in effect, that the Record Society should become a clearing house for documents that cannot be housed by the Public Record Office. Every year makes such papers more valuable, not merely for historians but for university students who are taking a curriculum of history, and who are now being taught to handle original documents for themselves.

When private collections of documents of varying types are sold by people in this country, as they are in increasing numbers, to Americans, a loud outcry goes up, notwithstanding the fact that their new purchasers frequently make them far more available to the public than they have ever been before. But a far more serious, and wholly irreparable, loss is being sustained daily through the destruction of papers in lawyers' offices, which are either burned or pulped. This destruction is nothing new. It has always been going on, even with valuable State documents, and it has almost had to go on in the case of legal documents, for every practising lawyer knows what a difficult and expensive problem the housing of accumulated documents tends to become, especially in an old-established business. But it is proceeding at a far greater pace than ever especially through the operation of the recent Property Act, which has made useless for the purposes of establishing title thousands of deeds. Thus it is that vast quantities of such papers, bearing importantly, as they do, on the history of land and landowners are sent to be pulped, or, in the case of parchment, sold to glue and toy-drum makers, manufacturers of fire-screens, lamp-shades and paper-weights.

The British Record Society is anxious to salve the pick of such documents, for the use of students, either in the depositories for manorial documents appointed in each county by the Master of the Rolls, or in the responsible custody of local record societies, in either of which places they can be kept safely, and produced if necessary, for the use of the donors or depositors, thus saving to solicitors both the cost of housing and the difficulties of handling.

There can be no doubt that lawyers will be glad to hand over such papers to a competent organisation when its existence is known and the systematic method of its work approved. Such an organisation on a national basis is offered by the British Record Society, which has recently been presented by a prominent firm of London solicitors with a collection of 400 odd boxes of deeds and papers, dating from the fourteenth century to the present day, and ranging in locality from London to the West Indies, from Wales to South Carolina.

Once assured that such documents will be cared for by competent authorities lawyers will, we feel sure, be eager to present such papers instead of merely pulping them, for, as explained above, they would thereby not only be conferring a great benefit on historical scholarship, but also be helping themselves by economising in the cost and trouble of accommodating and dealing with the papers, while still able to refer to them, should the need to use them arise.

The conference above referred to will discuss the subject under the headings of access, safe custody, sorting and scheduling, destruction and distribution. This conference on a national basis marks a great step forward, and it will be enormously helped by the hearty co-operation of all practising lawyers. They necessarily form an essential pivot of the whole scheme, which is striving to remove the reproach that the English people care nothing for the evidences of their own personal past, which they are left to seek, for the most part, in records kept by government for far other purposes than that of family or local history, while most even of the smaller countries of Europe have local record offices which are rich storehouses of such information—information which English solicitors themselves often seek, at great expense and in vain, for want of such a system of preservation as is now proposed.

ETHEL STOKES,
Hon. Organising Secretary.

British Record Society,
120, Chancery-lane, W.C.2.
31st October.

Police and Witnesses.

Sir,—I observe in your issue of the 18th October, at p. 681, a note under the above heading in respect of a case in which I appeared for a defendant at the Staple Hill Police Court.

Your contributor, no doubt, based his observations upon the somewhat meagre report of the proceedings. The facts were that at the first hearing the prosecution did not call a witness (a police officer in another constabulary) when it was known this witness had given the prosecution a statement through the usual channels. The witness, when asked for a statement on behalf of the defendant, replied that he had given his statement to the police who were prosecuting. At the hearing, after the case for the prosecution had closed, I protested that the evidence of this witness should have been placed before the court by the prosecution, and pointed out the difficulty in which the defendant was placed. An adjournment was granted to enable the defendant to call the witness in question. Before the adjourned hearing, application was made to the prosecuting police officer for particulars of the names and addresses of all witnesses known to the police, the defendant having intimated that there was another witness whom he could not trace. The police refused any information, and this, although the case for the prosecution was closed. In these circumstances there could have been no question of tampering with a witness for the prosecution, and, indeed, the reason the defence did not approach the police witness again was to avoid even the appearance of such conduct.

It was my contention that the prosecution should tender all reliable evidence to the justices, who are the judges of fact, and the prosecuting authority should not assume the duties of the court and decide in advance upon the value or trustworthiness of any material evidence. Moreover, if the prosecution know of witnesses to an occurrence, who will not be called by the prosecution, I submit every facility should be afforded to a defendant to enable him to call such witnesses if he so desires. While the police refuse all information until proceedings commenced at their instigation have been finally disposed of, there is always the possibility that evidence has not been given which would have weighted the scales of justice in favour of a defendant. It must be remembered that not only have the police far better facilities of obtaining evidence than are available to the public, but they are also servants of defendants as well as of those persons interested in prosecutions.

In motor collision cases in particular it often happens that persons are injured, and the duty accepted by all decent drivers of rendering first aid to injured persons very often precludes them from obtaining names of witnesses who could assist such drivers should they, all unwittingly, find themselves defendants in criminal proceedings.

Bristol. H. S. Cox.
20th October.

[A further note on this point appears under the heading "Criminal Law and Police Court Practice," at p. 793.—ED. *Sol. J.*]

John S. Richardson, of Thirsk, principal of Richardson and French, solicitors, left estate of the gross value of £61,817, with net personalty £53,626.

Reviews.

Voluntary Liquidation. By A. C. HOOPER, Solicitor. London: Gee & Co. (Publishers) Limited. 12s. 6d. net.

This work is, we believe, the first to deal solely with the subject of voluntary liquidation since the Companies Act of 1929 was passed. The procedure on voluntary winding-up was so altered by that Act that both liquidators and their legal advisers should welcome a handbook on the subject. The construction of the Act renders it no easy matter to ascertain the provisions which apply in the case of voluntary winding-up, as distinct from a winding-up by the court. As this book does not deal with the latter method, the reader is relieved of this difficulty. The book is well arranged and explains the position of the liquidator in the various stages from commencement to completion, and in most of the circumstances likely to arise.

The author on the whole sets out clearly the difference between the procedure in the winding-up of a solvent company by means of a members' voluntary winding-up, and that of an insolvent company by means of a creditors' winding-up. Mention might perhaps have been made of the circumstances in which a liquidator may take the risk involved in not advertising for creditors, e.g., where the winding-up is for the purpose of re-construction, or where creditors have already been paid in full.

The sections of the Act and the rules, so far as they affect voluntary winding-up, are given in full and the book is adequately indexed.

The Canons of International Law. By T. BATY, D.C.L., LL.D., Barrister-at-Law, Associate of The Institute of International Law. 1930. Demy 8vo. pp. xii and (with Index) 513. London: John Murray. 21s. net.

The canons of international law are, says Dr. Baty, simplicity, certainty, objectivity and elasticity, and he proceeds to range the whole subject-matter of international law in chapters, each of which bears one of these abstract nouns as its heading. It is very ingeniously done, and, needless to say, he has much to advance which is instructive, and much that is suggestive. But equal ingenuity would probably produce another arrangement of the matter, and the selection of subjects to be placed under one canon or the other is aimed rather at illustrating the canons themselves than at scientific classification.

Dr. Baty is a little too hard on the dictators of "ukases" from Geneva. A ukase is the arbitrary decree of an absolute monarch, whereas the rules worked out at Geneva, however imperfect, are the product of agreement, the highest common factor of conflicting opinions. We should have thought this process tended to test out international law, by bringing it from the text books into the life of every day. It is indeed necessary "to ascertain and reinforce guiding principles," but however well that can be done in the academy, their recognition and their application in every day life have to be brought about by the ancient method of trial and error.

To go through the book with any detailed criticism would be to write a treatise, rather than a review. We do not essay the task, but welcome with gratitude a volume whose most praiseworthy feature is the vigorous assertion of aspects of various questions too often overlooked. This it is that justifies Dr. Baty's method. In the process of stringing the pearls on a new string he shows them in a fresh light.

The Principles and Finance of Fire Insurance. F. W. CORNELL, Lecturer to the Insurance Institute of London. 1930. Crown 8vo. pp. viii and (with Index) 189. London: Effingham Wilson. 7s. 6d. net.

This little book is, of course, not a legal text-book. It deals only to a limited extent with the law, and does not, of course, profess to compete with the recognised legal authorities on fire insurance. But even to lawyers it is quite useful, for it gives, in a summarised form, an interesting account of the practical side of fire insurance. The parts dealing with re-insurance, finance and the discussion of the various clauses of the Standard Form are especially interesting. With regard to the law, as far as it is introduced into the book, one has to offer merely one or two minor criticisms, one of which is that on p. 107, where there is a discussion as to the rights of mortgagees to claim reinstatement under the Fires Prevention (Metropolis) Act, 1774, no reference is made to *Sinno* v. *Bowden* [1912] 2 Ch. 414.

Books Received.

Police Procedure and Administration. CECIL C. H. MORIARTY, O.B.E., B.A., LL.B. 1930. Crown 8vo. pp. xiii and (with Index) 287. London: Butterworth & Co. (Publishers), Ltd. 5s. net.

Tax Cases. Vol. XV, Pts. III, IV and V. Reported under the direction of the Board of Inland Revenue. 1930. Medium 8vo. pp. 165-254, 255-332, and 333-418. London: H.M.S.O. 1s. each, net.

Jurisprudence. Sir JOHN SALMOND. Eighth Edition (1930) by G. A. W. MANNING, M.A., B.C.L., of the Middle Temple, Barrister-at-Law. Demy 8vo. pp. xviii and (with Index) 580. London: Sweet & Maxwell, Ltd. 20s. net.

The Lawyer's Remembrancer and Pocket Book. ARTHUR POWELL, K.C. Revised and edited for the year 1931 by J. W. WHITLOCK, M.A., LL.B. Royal 18mo. pp. iv and 223 (and Diary). London: Butterworth & Co. (Publishers), Ltd. 5s. net.

Law of Contracts in a Nutshell. With Epitomes of Leading Cases. A. J. CONYERS, of the Inner Temple, Barrister-at-Law. 1930. Demy 8vo. pp. iii and 119. London: Sweet & Maxwell, Ltd. 4s. net.

The Office of the King's Remembrancer in England. Showing the connexion of the office with the Old Exchequer, and with the modern Treasury. Sir GEORGE ALBERT BONNER, of the Inner Temple, Barrister-at-Law, Senior Master of the Supreme Court and King's Remembrancer. 1930. Demy 8vo. pp. ix and (with Appendix) 185. London: Butterworth & Co. (Publishers), Ltd. 21s. net.

The Property Statutes up to date. Being a Supplement to the Second Edition of the "Law Notes" Guide to the new Property Statutes. Fourth Edition (1930) by H. GIBSON RIVINGTON, M.A. Oxon, and A. CLIFFORD FOUNTAINE. Medium 8vo. pp. (with Index) 154. London: "Law Notes" Publishing Offices. 5s. net.

The Parliament House Book for 1930-31. One hundred and sixth publication. Crown 8vo. pp. xcv (with Index) and 1,635. Edinburgh: Wm. Green & Son, Ltd. 21s. net.

Pension and Superannuation Funds. Their Formation and Administration Explained. BERNARD ROBERTSON, Fellow of the Institute of Actuaries and H. SAMUELS, Barrister-at-Law. With Foreword by Sir JOSEPH BURN, K.B.E., F.I.A. Second Edition (1930) revised and enlarged. Demy 8vo. pp. xii and (with Index) 148. London: Sir Isaac Pitman & Sons, Ltd. 5s. net.

Arbitration in England and Germany. By Dr. RUDOLF KAHN, Barrister-at-law; Advocate at the High Courts at Berlin. (Reprinted from the "Journal of Comparative Legislation.") London: Sweet & Maxwell, Ltd. 3s. net.

New York University Law Quarterly Review. Vol. VIII. No. 1. September, 1930. Three dollars per annum.

Commercial Goodwill. Its History, Value and Treatment in Accounts. P. D. LEAKE, F.I.C.A., etc. Second Edition. 1930. Demy 8vo. pp. xii and (with Index) 271. London: Sir Isaac Pitman & Sons Limited. 15s. net.

POINTS IN PRACTICE.

Questions from Solicitors who are Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, is responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to The Assistant Editor, 29, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Partnerships—Freeholds and Leaseholds—Vesting Legal Estate in Two or more Partners.

Q. 2068. A and B become partners in a business. A brings in cash £4,000, and B brings in freehold property valued £4,000, thereby making the partnership capital £8,000. There was a proper partnership deed drawn up between the parties. The deed contained the following proviso (taken from "Prideaux's Precedents," 22nd edition). "The legal estate in all real estate and chattels real acquired for the purposes of the firm or as part of the business thereof, shall (without prejudice to the rights of an individual partner) be vested in not more than four of the partners and not less than two Upon trust for sale and the net proceeds of sale and other capital money shall (without prejudice as aforesaid) form part of the partnership assets." Is any assurance or conveyance necessary in addition to the above to vest the freehold property brought in by B in the names of A and B to make it partnership property so as to give A as much interest in the property as B?

A. Certainly a conveyance pursuant to the quoted clause is necessary; until this is done the legal estate will remain in B.

Incidence of Tenant's Compensation.

Q. 2069. W.T. died in 1927, having made his will appointing executors and trustees, and directing all his residuary real and personal estate to be sold, and the income of the proceeds to be paid to his widow for life, and afterwards as to capital and income upon the trusts therein mentioned. Part of the deceased's estate consisted of a freehold farm, and the executors, with a view of offering the farm for sale with vacant possession, gave notice to the tenant to quit at Lady Day last (1930). The tenant quitted in accordance with the notice, and in May last the property was put up for sale by public auction, but was not sold. It was, however, subsequently sold by private treaty. The tenant served upon the executors notice of his claim for disturbance and other compensation, to which he is entitled under the Agricultural Holdings Act, and, in due course, arbitration was made as between the claim of the executors, as landlords of the farm, and the outgoing tenant. As a result of the award, there is a substantial sum payable to the tenant for compensation, after deducting certain items awarded to the landlords for the condition of land, etc. The question now arises as to whether the amount due to the tenant is payable out of capital (in this case the proceeds of sale of the farm) or income. If out of the latter, then, of course, it would have to be paid by the widow, who is entitled to the income from the estate for her life. At the time the tenant quitted there was a half-year's rent due from him, and even after allowing this out of the amount due to the tenant for disturbance, etc., there is a further balance owing, either out of capital or income. If the costs of the arbitration, and also the amount awarded to the tenant are charged on income, it means that the widow will, in addition to losing the half-year's rent payable on the 25th March last, have also to pay out of her own pocket, or other income received from another part of the estate, the above-mentioned balance. A search has been made, but no case can be found deciding the question as to whether the costs of award and the amount due to the tenant are payable out of capital or income. It appears to me that in this case the above sum is payable out of capital, for the reason that the executors themselves gave notice to quit, with a view of getting an enhanced price for the farm, by being able to give vacant possession to a purchaser, and thereby benefiting the reversioners.

A. The conclusion arrived at in the last paragraph of the question is correct (i.e., that the sum in question is payable out of capital) both for the reason there stated and also because (as pointed out in the fourth paragraph) a part of the capital consists of the proceeds of sale of the farm. The latter included the value of the unexhausted improvements, and therefore, by paying the tenant out of capital, the executors will merely be passing on to him that which they have received from the purchaser for what the tenant left behind.

Rights of Co-owners of Motor Car.

Q. 2070. A and B purchase a motor car for their joint use, and for a period of twelve months share all running expenses. The purchase money was also found by them in equal shares. A then has a serious illness and has no further use for the car. He requests B either to purchase his (A's) share in the car, or alternatively to sell and divide the proceeds. B refuses to do either, and B's son continues the car for his own use, paying all running expenses. The present value of the car does not exceed £100.

(1) Can A take proceedings in the county court for a sale in lieu of partition?

(2) If so, how are proceedings started? By plaint, or by petition? Which is the appropriate form in the County Court Practice?

(3) What other remedy or remedies has A?

A reference to any authorities would be appreciated.

A. The general rule is that one co-owner of a chattel cannot maintain trover or detinue against his co-owner, unless there has been something equivalent to a destruction of the chattel, e.g., a sale in market overt, or unless there has been an ouster by dealing with the chattel in a manner inconsistent with the title of the true owner. The above facts indicate such an ouster by B and his son, and they should both be sued for damages for conversion and for an account. On the specific questions put:—

(1) A cannot take proceedings in the county court for a sale in lieu of partition, but the action for damages might be adjourned pending a sale, if the defendants agree.

(2) The procedings will be started by plaint, Forms 6 and 22.

(3) A has the other remedies stated in the first paragraph, *supra*, as to which see *Nyberg* v. *Handelaar* [1892] 2 Q.B. 205.

Fresh Order for Payment by Instalments.

Q. 2071. A obtained summary judgment against B in the District Registry for £200. Judgment being unsatisfied and execution being considered inadvisable, A issued a judgment summons in the county court. B appeared and told the judge on oath that he would be able to clear off the whole of the debt in about six weeks, and A accordingly asked for and obtained a commitment order for forty-one days suspended on payment of £75 in seven weeks, and the balance one month thereafter. Both instalments are now in arrear and B has in the meantime been committed to prison by other judgment creditors for default in payment of quite small sums. A is

now desirous of getting the instalments under his order reduced, in order that they may be within B's means to pay, if he will do so to avoid further imprisonment. Order 23, r. 14 (County Court Rules), appears to us to authorise this, but we are told that it does not apply where a commitment order has been made under a judgment summons. We have replied by pointing out that Ord. 25, r. 55, refers (in the second part of the first sentence, commencing with the words "or where") to an order made under the first mentioned rule, even where there has been a commitment order executed by imprisonment. We are told, however, that the construction of r. 55 is governed by the first few lines of it, which refer to the making of a fresh order in lieu of an order of commitment. In our view the two parts of the sentence are independent, and the desired order can be made under Ord. 23, r. 14, and we shall be glad to have your view on the matter with reasons. It will be appreciated that the application is intended to be made under Ord. 23, r. 14, and that the other Order and rule is only mentioned as showing by implication that the desired order can be made.

A. The opinion is given that the application of Ord. 23, r. 14, is governed by the opening words: "Where there is an unsatisfied judgment or order." The interpretation that it does not apply, where a commitment order has been made under a judgment summons, is therefore correct. The judgment has in such a case been satisfied by execution, and the fact that the latter may be abortive does not make it any the less a satisfied judgment, outside the scope of the above Order. Order 55 does not help matters, as this only comes into operation after the debtor has been imprisoned. The result is that the proposed procedure is not available to enable A to obtain a reduction of his order.

Gavelkind Tenure—Effect of Transitional Provisions.

Q. 2072. In 1900 freehold land at Deal was conveyed to Mrs. L. P. D., who died intestate in 1923, leaving her husband, W. D., and her son, F. E. D., her only child and heir-at-law and in gavelkind surviving. W. D., the husband, took out a grant of letters of administration to L. P. D.'s intestate estate in 1923. The position at *that* date was apparently that the freehold land devolved on L. P. D.'s death intestate upon F. E. D. as heir-at-law and gavelkind, subject to W. D.'s life interest in a moiety thereof as tenant by the curtesy. No conveyance to this effect by W. D. as administrator was ever made and the legal estate presumably remained vested in W. D. as personal representative of the deceased. W. D. died in 1930, having by his will appointed F. E. D. sole executor and beneficiary, and F. E. D. has proved the will. The question now arises, how is F. E. D.'s sole beneficial title to the freehold land to be completed? The question seems largely to turn upon what happened on 1st January, 1926. Did the legal estate in fee simple in one moiety of the property automatically vest in W. D. as estate owner on that dated And did the legal estate in the other moiety then automatically vest in F. E. D. in fee simple? We shall be much oblige? by your views upon the present legal position and the documents necessary to be executed to complete F. E. D.'s beneficial title.

A. The position on the 1st January, 1926, was that the entirety was vested in W. D. in trust as to one moiety for himself for life, with remainder to F. E. D. in fee, and as to the other moiety in trust for F. E. D. in fee. This appears to be similar in essential particulars to the state of affairs in *Re Myhill, Hull* v. *M.* [1928] Ch. 100, and it may be safely said on the authority of that case that W. D. became a trustee on the statutory trusts under Pt. IV, para. 1 (1), 1st Sched., L.P.A., 1925. The land is therefore now vested in F. E. D. upon the statutory trusts. In view of s. 23 it is considered that F. E. D., as trustee, should convey the land to hold to himself absolutely and that a memorandum of the conveyance should be endorsed on the probate of W. D.'s will.

Notes of Cases.

Court of Appeal.

Rogerson *v.* Scottish Automobile and General Insurance Company Limited.

Scrutton, Greer and Slesser, L.JJ. 12th November.

Insurance — Motor Car — Accident — Policy covering Liability to Third Parties—Insurance covering Liability in respect of use of any Motor Car . . . "Instead of the Insured Car"—Sale of Insured Motor Car—Purchase of new Motor Car of similar Type and Power to insured Motor Car—Accident while using new Motor Car—Liability of Insurance Company.

Appeal from a judgment of Roche, J. (74 Sol. J. 550).

The plaintiff claimed from the defendants, the Scottish Automobile and General Insurance Company Limited, damages for alleged breach of contract and a declaration that they were liable to indemnify him against any sums which he (the plaintiff) might have to pay in an action which had been brought against him for damages in respect of a motor car accident. The plaintiff had insured with the defendants by a policy dated the 23rd of May, 1928. By that policy which had been renewed in May, 1929, the defendants contracted to indemnify the plaintiff against, *inter alia*, all sums which the assured (the plaintiff) should become legally liable to pay as compensation for bodily injury caused to any person or persons by a motor car described in the schedule to the policy. The policy further provided that "this insurance shall cover the legal liability as aforesaid of the assured in respect of the use by the assured of any motor car (other than a hired car) provided that such car is at the time of the accident being used instead of the insured car." In May, 1929, the plaintiff sold the insured motor car and purchased a new motor car of a similar type and power to the motor car which he had insured with the defendants. In July, 1929, while the plaintiff was using the new motor car, he met with an accident, causing bodily injuries to a third person. In consequence of that accident the person who was injured brought an action against the plaintiff for damages. The plaintiff referred the claim to the defendants, but they repudiated liability. Thereupon the plaintiff brought this action for damages and a declaration. The plaintiff contended that the motor car which he was using at the time of the accident was one which was covered by the words in the policy: "any car . . . being used instead of the insured car."

Roche, J., held that the plaintiff was in fact using the new motor car "instead of" the old motor car, within the meaning of the policy and that no term was to be implied in the policy that continued ownership of the motor car originally insured was necessary for the continuance of the insurance company's liability. He accordingly gave judgment for the plaintiff. The defendants appealed.

The Court allowed the appeal on the ground that the plaintiff, having no longer any insurable interest in the insured motor car, was not entitled to the declaration claimed. The parties could not be held to have intended to depart from the cardinal principle of insurance law that a person could not recover for a loss in respect of a subject matter in which he had ceased to have an insurable interest. Appeal allowed.

Counsel: *Rayner Goddard*, K.C., and *G. O. Slade*; *Schiller*, K.C., and *N. R. Fox-Andrews*.

Solicitors: *Stanley Evans & Co.*; *William Charles Crocker*.

[Reported by T. W. Morgan, Esq., Barrister-at-Law.]

Mr. J. L. Quennell, the well-known Brentwood solicitor, died suddenly on the 21st October at the age of sixty-six. He had been registrar of the Brentwood County Court and clerk to the Brentwood Justices for many years, and treasurer of the Brentwood Hospital since he assisted in its foundation in 1893.

Probate, Divorce and Admiralty Division.

Grayson *v.* Grayson and Sebright.

Bateson, J. 27th October.

DIVORCE—DECREE RESCINDED ON KING'S PROCTOR'S INTERVENTION—APPLICATION BY CO-RESPONDENT FOR PAYMENT OUT OF DAMAGES—UNSUCCESSFUL APPLICATION BY KING'S PROCTOR FOR DEDUCTION OF COSTS OF INTERVENTION—JUDICATURE (CONSOLIDATION) ACT, 1925, 15 & 16 Geo. 5, c. 49, s. 182, sub-s. (1).

This was a motion on behalf of the co-respondent that the sum of £500 damages awarded against him in the suit and paid into court be paid out to him following the rescission of the decree *nisi* on the King's Proctor's intervention. The rescission of the decree had been suspended pending the hearing of the present application. Counsel for the King's Proctor submitted that the damages should only be paid out subject to the deduction of the costs of the King's Proctor's intervention. The proper analogy of the King's Proctor's claim was that of a solicitor's lien. If the King's Proctor had not intervened the co-respondent would have lost his money. The question was whether the costs were to fall on the taxpayer or the co-respondent who was a party in the suit. Counsel for the co-respondent submitted that the court had no jurisdiction to make the co-respondent pay the costs, as he was not a party in the King's Proctor's intervention, and was not given notice of the King's Proctor's plea, and alternatively that such an order would not be justified. The King's Proctor was a public official acting in the public interest, not in that of the co-respondent.

BATESON, J., in the course of giving judgment said that he had no doubt that he had jurisdiction under s. 182, sub-s. (1), of the Judicature Act to make an order for the payment of the King's Proctor's costs against any party to the proceedings, including the co-respondent. The question was whether, in the circumstances of the present case, he ought to order that the amount of damages which the co-respondent had paid into court should be subject to the deduction of the King's Proctor's costs of the intervention. As he (his Lordship) understood the facts, husband and wife had put their heads together to catch the co-respondent in a compromising position so that the husband could seek for a divorce from his wife and get damages from the co-respondent, and in the result a decree *nisi* was pronounced. The jury found that £500 was the proper sum of damages to be paid by the co-respondent. But the King's Proctor intervened and the decree *nisi* was set aside. The King's Proctor now said that the co-respondent ought to pay his costs. There was no suggestion that the co-respondent was in any way a party to the trick that was played or that he had done anything wrong in the proceedings. The co-respondent had nothing to do with the intervention and was not cited to appear. He (his Lordship) did not think he ought to mulct the co-respondent in the costs of the intervention by the King's Proctor to prevent the petitioner getting his decree. The petition would be dismissed and there would be an order for payment out to the co-respondent's solicitors of the £500 damages. There would be an order for the costs of the King's Proctor's intervention against the petitioner and also against the respondent, limited to her separate estate.

COUNSEL: *F. L. C. Hodson*, for the co-respondent; *W. N. Stable*, for the King's Proctor.

SOLICITORS: *Lewis & Lewis; The King's Proctor.*

[Reported by J. F. COMPTON-MILLER, Esq., Barrister-at-Law.]

Mr. William Garrard Snowdon Gard, LL.B., M.B.E., J.P., formerly of Messrs. Gard, Lyell & Co., solicitors, Gresham-street, died on 18th November, in his eighty-third year. Mr. Gard joined Mr. James Townley in practice in 1869, and on the latter's death he became the senior partner. He remained in practice until his retirement in 1916.

The Law Society.

FINAL EXAMINATION.

The following Candidates (whose names are in alphabetical order) were successful at the Final Examination held on the 3rd and 4th November, 1930:—

Frank Kingsley Clayton Adams, LL.B. London, Geoffrey Corfield Aldhouse, Raymond Seaforth Allen, B.A., LL.B. Cantab., Alick Altman, Philip Michael Armitage, B.A. Cantab., Alfred Ashford, William Harttree Ball, Eric Peter Banks, Alan Meek Barker, B.A. Oxon, Alec Barker, Ernest Anthony Barker, B.A. Oxon, Christian Valdemar Stig Barnholdt, Thomas James Mountstevens Barrington, LL.B. London, William Michael Bassadone, Geoffrey Hesketh Pearson Beames, Francis William Chambers Beardsley, Harold Bennett, Michael Messer Bennetts, Robert Theodore Berger, Labe Bere Berkson, LL.M. Liverpool, Samuel Bieber, LL.B. Liverpool, John Norman Bishop, Geoffrey Shuttleworth Blakeborough, Arthur James Penrose Booth, B.A. Oxon, William Rowland Thompson Booth, Henry Loveday Bosworth, Alfred William Braithwaite, M.A. Oxon, Gabriel Ian Brandon, Denis Herman Root Brearley, LL.B. Manchester, Walter George Brian, Donald Broackes, B.A. Cantab., Henry Guy Frodsham Buckton, B.A., LL.B. Cantab., Thomas Oswald Burrow, Francis Henry Busby, Charles Nicholas Bushell, B.A. Oxon, John William Calvert, Brian Herbert Cannon, B.A. Oxon, Philip Canter, Gordon Worral Casey, LL.M. Sheffield, Ronald James Cassels, Herbert Castle, Bertram Richard Cecil, Eric James Chapman, Noel Thomas Chetwood, Noel Clarke, Nathan Leslie Cohen, Gerald Gordon Collis, Malcolm Edward Cooper, John Arnold Corbin, John George Barnley Coulson, Stanley Joseph Cox, Charles Harold Crebbin, B.A. Oxon, Trevor Taylor Cropper, Douglas Gilbert Cross, Samuel William Dalton, Derrick Stephen Davies, Elfyn John Davies, LL.B. Wales, Trevor Owen Davies, Beatrice Honour Davy, LL.B. London, John Dearden, Edward Paul de Guingand, B.A. Oxon, Anthony Henry Dell, Frederick Ronald Edis, LL.B. London, John Wilfrid Edwards, Rupert Randolph Eldridge, Alan Lile Llewellyn Evans, B.A., B.C.L. Oxon, Stanley Evershed, B.A. Oxon, LL.B. Birmingham, William Haddock Farr, Horace Frederick Farren, Leslie Arthur Fawke, Gerald Robert Finlow, Edward Vincent Finnigan, Bernard Flinter, Oliver Keenlyside Forster, Leslie Freeman, Morris Freeman, Jacob Gaster, John Frederick George, Arthur Clive Johnson German, B.A. Oxon, Geoffrey Clifton Gibbs, B.A. Oxon, Wilfrid Humble Gibson, B.A. London, Henry Greaves, LL.B. Sheffield, Owen Greenfield, Roger Fairchild Greig, Wilfrid Hampton, Neville Hamwee, LL.B. Manchester, Percival Walter Harman, Frank Noel Harmshaw, Robert Leslie Hazell, John Frederick Hatchard, William Gordon Hiatt, LL.B. London, Anthony North Hickley, B.A. Oxon, Denys Theodore Hicks, Alfred John Hills, William Hinmers, B.A. Oxon, Roy Stuart ffrench Hodges, Walter Harold Hodson, Robert James Hogg, Charles Leslie Holcom, Edgar Ewart William Hornbrook, Herbert House, William Murray Humphrey, Edward Pugh Humphreys, Laurence Harold Hutchinson, Antony Woods Hutton, John Frederick Jackson, Harold Capewell James, Lawrence Wilfred Johnson, B.A. Cantab., Richard Thomas Dawson Johnson, Albert Jones, David Stuart Jones, Ivor William Jones, William Trevor Jones, Gopala Krishnamurthy Kannepalli, Henry Holmes Lambert, B.A., LL.B. Cantab., Ernest Alfred Last, Arthur William Johnson Law, Robert Carrick Leiper, B.A. Oxon, Aidan Pitfodels Menzies Liston, LL.B. Manchester, David Reginald Lloyd, B.Sc. Wales, Henry Maurice Loncaster, John Godsell Lusty, Robert Henry Cary Lyons, B.A. Oxon, Thomas Alfred McLoughlin, LL.M. Liverpool, William Henry Maddock, Jeffrey Jocelyn Malim, Bernard James Manners, Norman Margetts, Archibald Marsden, Hedley Herbert Marshall, LL.B. London, Reginald Martin, Freda Victoria Branson Mason, Henry Adolphe Mayor, B.A. Oxon, Richard Oscar Reeves Medlicott, Harry Christopher Mileham, Victor Frank Louis Millard, Christopher Mills, Frederic Lionel Monro, John Gordon Moore, Charles Richard Moss, B.A. Oxon, Leonard Sidney Mote, Maurice Francis Myers, Clarence William Nelson, Edward Robinson Nevin, Alan Croome Nichols, LL.B. Birmingham, Francis Ogley, John Cuthbert Ottaway, Lazarus Paisner, Robert Frederick Payne, Geoffrey Vernon Worth Pembroke, Sydney Lindley Penn, Clement Frederick Penruddock, B.A. Oxon, Henry Ernest Pim, William Alexander Martin Pink, Harry Montague Pinney, George Douglas Pool, Edward Powell, Arthur Hosegood Pratt, Frederick Hugh Dalzel Pritchard, B.A. Oxon, Joshua Harold Fenton Ratcliffe, Joseph Francis Ritz Ritchie, Philip Edward Rodway, Maurice Rubin, Herbert Rutter, LL.B. London, Sydney Rutter, May Cissie Samuel, LL.B. Leeds, Edward Thomson Scott, Thomas Arthur Scrivener, John Shufflebotham, Louis Silman, LL.B. Leeds, Thomas Lewis Simmons, Cyril Simons, Francis Harry Faulkner Simpson, Henry Broadfield

Sissmore, John Skinner, Charles Leslie Warren Smith, Maurice Kingsley Smith, Thomas Knightley Smith, John Alan Spencer, Francis Edward Stafford, Charles Raymond Steele, Alice Nanceckivell Stevens, Edward Thomas Stirk, Norman Leslie Story, Roguvald Kendall Storrage, Sydney Ashton Stray, Michael Robert Eric Swanwick, B.A. Oxon, Charles Cameron Sykes, George Lawrence Talbot, John Howard Tayler, B.A. Oxon, Frederick William Taylor, Leslie Walter Tee, Arnold Geoffrey Broadbent Thompson, B.A., LL.B. Cantab., William Henry Tilley, LL.B. Birmingham, Jeffery Percy Christien Tooth, Ernest George Townsend, Stephen Townsend, James Reginald Dorrington Salusbury Trelawny, Eric Lloyd Horsfall Turner, Leonard George Vickers, LL.B. London, Horace André Visick, Avery Clough Waters, B.A. Cantab., John Trevor Verity Watson, LL.B. Leeds, Jack Leslie Raymond Webb, John William Welch, Norman George Welch, B.A. Cantab., Philip Mitchell Wickham, B.A. Oxon, Herbert Horatio Howitson Wiggett, B.A. Cantab., Gilbert Charsley Williams, Thomas Robert Williams, LL.B. London, Roland Woolf, B.A. Cantab., Edmund Leighton Yeo, B.A. Oxon, John Hugh Derek Young.

No. of Candidates, 272. Passed, 213.

The Council have awarded the following prize:—To Thomas Robert Williams, LL.B. London, who served his Articles of Clerkship with Mr. William Richard Francis, of Swansea, the John Mackrell Prize, value about £13.

INTERMEDIATE EXAMINATION.

The following candidates (whose names are in alphabetical order) were successful at the Intermediate Examination held on the 5th and 6th November, 1930. A candidate is not obliged to take both parts of the Examination at the same time.

First Class.

William Herbert Bayliff, Reginald Clarence de Montmorency Blum, William Victor Bowden, John Herbert Anthony Crundell, Arthur Denham Foxon, Robert Henry Cowell Herron, Oscar Tracy Hill, Richard Jewson Marshall, Wilfrid Lyonel Miron, Colin James Morton, Roland Neville Pepper, John William Saleby, B.A. Oxon, Asher Lewi Shane, Albert Ronald Smith, Albert Eagle Stedman, John Edmund Stevens, John Eric Thomas, Leonard Cooper Tilley, B.A. Birmingham.

Passed.

Kenneth Edward Allanson, Herbert Thomas Atkins, Francis Lovel Atkinson, Harald Francis Baker, William Henry Ritson Barker, William Fraser Bland, Godfrey Rowland Bolsover, Roger Morrison Brooks, Laurence St. Clair Broughall, B.Sc. London, Stephen Humfrey Brown, B.A. Oxon, John Smith Byrom, Arthur Stephen Cawson, John Richard Harrison Chisholm, B.A. Oxon, Harold Clarke, Kenneth Dickson Dickie, Philip Thomas Durant, Robert James Edmondson, Arthur Elliott, B.A. Oxon, M.A. Sheffield, Arthur Robert Malcolm Ellis, Leslie Ernest England, Howard Miller Everett, Frank Field, Bernard Thomas Ford, Neil Gordon Forster, David Henry Godkin, Thomas Cecil Gouldsmith, Edward Croft Hackett, Thomas Arthur Hall, John Philip Halpin, Reginald Shuffell Hawkins, Harry Hick, Geoffrey Victor Hickman, Bernard Hamilton Howlett, Philip Brown Hunter, Charles Israel, Clement Wilfred Jarvis, Gordon Cotter Jennings, David Murray John, B.A. Oxon, George Orchard Joyce, Thornton Lambert Kay, Joseph William Knighting, Arthur Cuthbert Langham, Richard Procter Lee, Laurence Isidore Legg, John Ireland Miller, Alan Ernest Millward, John Hugo Minor, Arthur Morgan, Hugh Treharne Morgan, Robert Henry Morton Ody, William Orrell, William Thomas Pirie, James Walter Rackham, William Francis Willett Ram, Alan Richardson Read, Harold Arthur Riley, John Griffith Roberts, Sydney Victor Shadbolt, Harold Walter Sharp, Robert Owen Sherrard, Leslie Southern, Thomas Humphrey Thackrah, B.A. Oxon, Oliver Russ Turner, Gordon Leonard Tanat Walker, John Shiel Wall, Charles Martin Sidney Wells, B.A. Cantab., Frank Leslie Wood, Charles Trafford Wynne, Jack Yates, Alfred Robert Young.

The following candidates have passed the Legal portion only:—

Lawrence Montague Aneckstein, Eric Ormerod Ashton, B.A. Cantab., Henry Godfrey Asplin, B.A. Cantab., John Arnold Payse Bartlett, Henry Charles Barton, Eric George Bates, B.A. Cantab., Francis Charles Shaw Bayliss, B.A. Oxon, Benjamin Berkoff, B.A. Cantab., Arthur John Bird, B.A. Cantab., Alfred Charles Bradbury, Geoffrey Robert Martin Brown, Frederick William Bunting, Edward James Henderson Burnett, John William Calvert, Ben Canter, Thomas Needham Cartwright, Robert Arthur Waycott Chaff, David McKinnan Chalmers, B.A. Cantab., George Pountney Peregrine Chesshire, Alan Roy Cleaver, George Clough, Frederick Cockroft, B.A. Durham, Cæsar Gordon Saville Cohen, Elizabeth Conway, Herbert Copland, Ronald Victor Fleming Crooks, B.A. Oxon, Laurance Henry Crossley, Arthur John Davey, John Charles Claud Davies, John Law Denison, David Seymour Downs, Charles William Brian Duckworth, Frank Dumpleton, Geoffrey Harry Leonard Evans, Douglas Eric Gyselman Fearn, John Higham Franks, George Vincent Freeman, John Middleton Freeman, Robert Meredith Gamble, Kenrick Jasper Gardiner, Clifford Roy Glenny, Kenneth Goodacre, John Ernest Richard Hardman, John Mason Haywood, John William Horsford Hodgson, Richard Seton Hood, B.A. Cantab., Charles William Hunt, Vivian Horswill Jackson, Leslie Harold Jee, Ernest Johnson, Howard Sydney Johnson, Lorence Evelyn Jones, B.A. Cantab., Grindy Clement Kirk, Ralph Herbert Lane, Alice Dorothea Sophia Large, Arnold Derek Arthur Lawson, B.A. Cantab., Guy Leggatt, B.A. Cantab., David Hilton Lewis, Philip Henry North Lewis, John Emrys Lloyd, B.A. Cantab., Charles Donald McDonald, William McNamara, Patrick MacMahon Mahon, Robert Henry Waterland Mander, Stephen Fenwick Mill, David Herbert Milne, Richard Hugh Morgan, William John Vernon Morgan-Griffiths, James Leslie Muckle, Cyril Geoffrey Nelson, Brenda Mary Nevill, James Ogden, Samuel Philip Oliver, John Edward Leader Orpen, B.A. Cantab., Derek John Osborne, Frederick Burton Pearce, Fitzroy Paget Upsall Phillips, Guthrie Phillips, Denys Montagu Roper Piesse, Robert Gillbee Plowman, Ben Pomerance, Gwilym Roger Prys, Leonard Charles Randall, Kenneth Werer Relton, Abraham Eric Richardson, Anthony Ricketts, William Tyler Ricketts, George Stephen Hardwick Rittner, Godfrey Roberts, Idris Roberts, Benjamin Robinson, William Richards Rogers, Theodore Burton Fox Ruoff, Harry Sabberton, B.A. Cantab., Bernard Sharp, B.A. Oxon, William Bruce George Carnarvon Slayter, Arthur John Slee, Philip Thomas Francis Smith, Ralph James Dalziel Smith, Henry John Edward Stannard, Hubert Wethered Thorn, Harry Trott, John Cuthbert Middelton Tucker, B.A. Oxon, Thomas Alfred Tyrrell, Margaret Wade, John Langton Waite, Robert Walsh, Williams Charles Russell West, Harold Gardener Wheeler, John Manners Whitley, B.A. Cantab., Robert Davie Whittingham, B.A. Cantab., Robert Mostyn Williams, Stanley Williams, Vivian Whistance Williams, Kenneth Alexander Wilson, Stuart Muir Wilson, Charles Edward Wood, Aubrey Arthur Woolmer, B.A. Oxon, Roland Guy de Lancy Wormell, Emrys Wynne.

No. of Candidates, 293. Passed, 208.

The following Candidates have passed the Trust Accounts and Bookkeeping portion only:—

Geoffrey Weaver Adams, Martin Frederick Athay, B.A. Cantab., Ralph Aubrey, Henry Eli Baker, B.A. Oxon, Charles Gifford Bardswell, B.A. Oxon, John Ewart Baring, Lancelot Elliot Barker, B.A. Cantab., Harold Edwin Barrett, George Erskine Barrow, B.A. Cantab., Thomas Godfrey Barrows, William Whitehead Hicks Beach, B.A. Cantab., John Melliar Adams Beck, Edward Roger Bickley, Henry Taylor Blakeston, Norleigh Booth, B.A., LL.B. Cantab., James Botteley, B.A., LL.B. Cantab., Arnold Brewer, Geoffrey Brightman, B.A., LL.B. Cantab., Eric Arthur Swatton Brooks, B.A. Oxon, William Mauleverer Brown, B.A. Cantab., Leonard Edmund Callender, Robert Nunes Carvalho, B.A., B.C.L. Oxon, Lionel Percy Carver, Dudley Erskine Granville Chapman, Thomas Longden Child, B.A. Oxon, Cyril Clark, Harold Hubert Cochrane, B.A. Oxon, James Cockshott, Reginald John Coen, Mark Sidney Cohen, Maurice Fletcher Coop, B.A. Cantab., Idris Pryce Davies, LL.B. London, Ralph Thomas Davis, Stanley De Leon, LL.B. London, Philip Charles Dendy, Arthur George Dennis, LL.B. Birmingham, Geoffrey Ernest Maurice De Sainte Croix, Denis William Dobson, B.A., LL.B. Cantab., Vyvyan Ollive Nicholas Donnithorne, B.A. Oxon, John Hubert Dunk, John Else, LL.B. Liverpool, Clifford Walter Emptage, Aranwen Evans, Abe Fearnley, LL.B. Leeds, Robert Ellison Fearnley-Whittingstall, B.A. Cantab., Maurice Murrowood Firth, Denis James Fountaine, B.A. Oxon, Robert Edward France-Hayhurst, Kenneth Lovat Fraser, B.A., LL.B. Cantab., Robert James Fuller, Paul Furniss, Kathleen Beatrice Lydia Giles, John Blacket Gill, B.A. Cantab., Joseph Humber Glover, Oswald Joseph Goodier, B.A. Oxon, Allan Arthur Gotelee, B.A. Oxon, Walford Scott Green, B.A. Cantab., Ferdinand Harvey Hackman, B.A., LL.B. Cantab., Stephen Henry Hanmer, B.A. Cantab., Edward Peter Hansell, B.A. Oxon, Joseph Harford-Overton, LL.B. Leeds, Roy Meadows Harmston, Frank Lloyd Harris, LL.B. London, Lawrence Harris, Gerard Twisleton Haxby, B.A. Cantab., Alexander John Colin Hay, B.A. Cantab., William Richard Henson, Harold Richardson Herbert, B.A. Oxon, Harold Jonas Higham, John Kenneth Hood, B.A. Oxon, Hubert Ashton Horner, LL.B. Manchester, Colin Victor Horswill, B.A. Oxon, Christopher Robeson

Horton, B.A. Oxon, Stanley George Hough, Frank Arthur Howarth, Walter John Humphries, Thomas Hunter, Charles John Radcliffe Husband, B.A., LL.B., Cantab., Peter Hutchison, B.A. Oxon, Harold Sagar Jackson, Reginald Robert Arthur Johnson, Eric Gordon Jones, Jestyn Herbert Jones, B.A. Oxon, Geoffrey Louis Kahn, B.A. Oxon, George Francis Nelson Kent, B.A. Cantab., Thomas David Bland Kimpton, Richard Alan Kinnersley, B.A. Cantab., Eric Charles Kirton, B.A. Manchester, John Gilchrist Langley, Harry Ferguson Langstaff, Albert Lawless, Maurice Lesser, Gerald Thomas Lester, John Lister, B.A. Cantab., Anthony Baruh Lousada, B.A. Oxon, Jonas Lyons, Cyril Grant Maby, B.A. Oxon, John Joseph McAvoy, Alexander Steel McKenzie, John Fortescue Mackeson, B.A. Cantab., Donald MacLeod, Ernest James Mander, Jacob Maurice Mass, LL.B. Liverpool, Patrick Richard Phillimore Mathias, B.A. Cantab., Maurice George Meade-King, B.A. Oxon, Bernard Cave Mitchell, Thomas Dunbar Morgan, Richard Lloyd Morris, LL.B. Wales, John Frank Musson, LL.B. Leeds, Maurice Ashton Nelson, B.A. Cantab., Leslie Charles Nevett, George Stonehouse Nicholson, Stephen Abbott Notcutt, B.A. Cantab., Richard Brian Orange, B.A. Oxon, Harold Owen, Leslie William Parkhouse, B.A. Cantab., Edwin Caffrey Parr, B.A., LL.B. Cantab., Ernest Peck, John Frederic Roger Peel, B.A. Oxon, George Edward Maxwell Pennefather, B.A., LL.B. Cantab., Thomas Francis Henry Pethick, Geoffrey Frederic Powell, B.A. Oxon, David Henry Pritchard, B.A., B.C.L. Oxon, Enid Lilian Pritchard, B.A. Oxon, Richard Gordon Procter, William Rawcliffe, Charles Bertram Read, John Maurice Rees, James William Reid, B.A. Oxon, Claude Richardson, B.A. Oxon, Geoffrey Heber Rickards, B.A. Oxon, Arthur Edward Riley, Henry Hornby Ringwood, B.A., LL.B. Cantab., Ronald Gordon Lockhart Rivis, Arthur Benjamin Roberts, B.A. Wales, Leonard Pritchard Robinson, B.A., LL.B. Cantab., Alfred Philip Rooke, B.A. Cantab., Richard George Warwick Ross, B.A. Cantab., Dudley Bridger Rubie, Gerard Ryder, LL.B. Manchester, Neville Nathan Saffer, B.A., LL.B. Cantab., Herbert Samuel Sargent, Leo Shapeero, B.A. Cantab., Roger Sharpley, Basil Henry Sheldon, B.A. Oxon, Herbert Walter Shibko, Thomas Spensley, B.A. Oxon, Robert Arthur Slesser, B.A., LL.B. Sheffield, Dennis Clitherow, Eric Halstead Smith, Alvaro Maria De Lourdes Soares, Thomas Muir Sowerby, Valieri John George Stavridi, B.A. Oxon, Edward John Stewart, Julius Stone, B.A., B.C.L. Oxon, LL.M. Leeds, Eric Richard Summer, B.A. Cantab., Ronald Helme Sutcliffe, Cedric Herbert Wyndham Taylor, B.A. Oxon, Vincent Mervyn Taylor, B.A. Oxon, John Thomas, Joseph Thomas-Davies, B.A., B.C.L. Oxon, Francis James Trentham, Miles Turnell, Harold Albert Turner, Cedric Knowles Wallis, Leslie James Walter, B.A. Cantab., Guy Melmoth Walters, Peter Bartlett Collier Watson, B.A. Cantab., Lawrence Eyre West, B.A. Oxon, George Andrew Wheatley, B.A. Oxon, Charles Maldwyn Wilkin, Graham Wyatt Williams, B.A. Oxon, John Aliser Seymour Williams, Leslie Norman Wills, B.A. Oxon, Ernest Norman Wood, B.A. Oxon, Michael Wordsworth, B.A. Oxon, Joseph Daniel Francis Wyatt, LL.B. London, Peter Yorke, B.A. Oxon.

No. of Candidates, 389. Passed, 266.

Societies.

London School of Economics.

ECONOMIC THEORIES IN ENGLISH CASE LAW.

The Right Hon. Lord Chancellor took the chair at the School of Economics on 21st November, when Professor Hughes Parry delivered his inaugural lecture on this subject. Professor Parry said that during the last fifty years a very inconspicuous rôle had been assigned in English legal education to legal theory and legal philosophy. This neglect, together with a concentration on the substantive rules of law must lead to a failure among English law students in general to appreciate the nature and purpose of law and its place among the other social sciences. There was a tendency to accept as legal rule economic doctrines and precepts prevailing fifty years ago. While the day of the economic assessor or economist judge might not be yet, there was no reason why both Bar and Bench should not make more frequent reference to standard works of economics and why well-known economists should not be more often called as expert witnesses.

Law and economics came into contact in the interpretation of Acts of Parliament and of economic terms used by legislatures, contractors and lawyers. Dr. Robson, who had studied this subject with some care(*) had come to the conclusion that in their definition of these terms English lawyers had not built upon "any sound body of coherent economic principles." On the contrary, he had pointed out that "there is a serious lack of consistency between the various branches of the law; and, so far as economic notions are concerned, the right hand of the law often knoweth not what the left hand doeth." More than one current doctrine of political economy had affected the development on the English common law. Professor Winfield(†) had said: "Public policy was in effect a principle of judicial legislation or interpretation founded on the current needs of the community." Consequently, many decisions in the field of restraint of trade, "though only fifty years old, are museums of fossil economic theories."

THE INFLUENCE OF *Laissez Faire*.

The sphere of property and contract was obviously liable to be affected by economic considerations. The mercantilist doctrines of the seventeenth and eighteenth centuries had been enforced by the Navigation Acts, and by numerous Crown charters. Thus one reason why a monopoly was judged to be against the common law had been expressed by Popham, C.J. (11, C.O. Rep. 86a):—

> "All trades . . . which prevent idleness (the bane of the commonwealth) and exercise men and youth in labour, for the maintenance of themselves and their families, and for the increase of their substance, to serve the Queen when occasion shall require, are profitable for the commonwealth, and therefore the grant to the plaintiff to have the sole making of them is against the common law, and the benefit and liberty of the subject."

The doctrine of *laissez faire*, of all political and economic doctrines, had made the deepest and most enduring marks upon judge-made law and for a century and a half had determined the general attitude of the bench. Economists at the beginning of that period had been preaching a divine harmony between private advantage and public good, and political philosophers had been proclaiming that the end of the law should be to "let men do freely everything they like, consistently with a like free doing of everything they like by their fellow men." This had inspired the judges to clear away the mediæval restraints upon free economic activity and, as Dean Pound had pointed out, had presented an ideal "philosophy of law for discoverers and colonisers and pioneers and traders and entrepreneurs and captains of industry." The result had been to intensify the individualism of the common law, so that the courts had been strongly opposed to forms of collective action like the formation of joint stock companies and associations of employers and workmen.

Many substantive legal rules, particularly in the realm of property and contract, were directly traceable to certain aspects of the *laissez faire* doctrine. Liberty of contract and freedom of trade had become popular in the reaction against seventeenth century regulation of service and trade, and were in harmony with the gospel of the economic liberty of the individual expounded by Adam Smith and Ricardo. Lord Morris, in the famous *Mogul Steamship Co. Case* in 1892, had said: "In these days competition is the life of trade." Such exceptions as the Court of Chancery had taken to the free play given by the common law to selfish motives had only been in obedience to some exceptional demand made in the interests of natural justice, and had in reality only emphasised the common law rule of non-interference with private contracts. In the ownership of all forms of property the influence of *laissez faire* and individualism were also obvious, and the only limits which court had set to the owner's right of enjoyment was that preached by Bentham, that the owner must not so use his property as to injure other persons. The courts had been particularly favourable during the nineteenth century to the owner's right of unrestricted disposition of property, *inter vivos* or by will. Despite the recent tendency of the legislature to devise means for controlling the mode of user of land, there was no general tendency among the judges to modify private rights of property. In conclusion, Professor Parry hoped that he had made it clear that between economics and law there was a borderland of rich and almost virgin soil awaiting discovery.

Lord SANKEY said that it was useful for judges occasionally to impress upon the law current economic theories, although it was not always desirable that they should impress upon it their own economic ideas. The position of the trades union was an example of the danger of the judge's influence in this connexion. The series of cases dealing with restraint of trade provided an excellent illustration of the influence of economic theory on case law.

Among those present at the lecture were Mr. Justice McCardie, Professor E. Edwards (Vice-Principal of Aberystwyth University), and members of the Faculty of Laws of the London University.

(*) "Legal Conception of Capital and Income," in "London Essays in Economics."

(†) Public Policy in the English Common Law, "Harvard Law Review," p. 92.

Legal Notes and News.

Honours and Appointments.

The King, on the recommendation of the Lord Chancellor, has approved the name of Sir MAURICE LINFORD GWYER, K.C.B., for appointment to the rank of King's Counsel.

Sir Maurice Gwyer has been Procurator-General and Solicitor to the Treasury since 1926. He was legal adviser to the Insurance Commissioners from 1912-16, to the Controller of Shipping, 1916-19, and to the Ministry of Health, 1919-26.

Lord GREENWOOD has been sworn in at Middlesex Sessions as a Justice of the Peace for Middlesex.

His Honour Judge Sir ALFRED TOBIN, K.C., has been elected Treasurer of the Middle Temple for the ensuing year.

Professional Announcements.

(2s. per line.)

Mr. HOWE COWAN (LL.B. New York University), barrister and solicitor (St. John, New Brunswick, Canada), announces that after being identified with some of the large law offices in New York City for the past ten years, he has opened his own offices as Professional Correspondent for Lawyers on Admiralty, Legal and Tax matters, as affecting British subjects and their interests, at 15, Park-row, New York City. 'Phone: Worth 2484; Cable address: "Howcowan," New York.

Messrs. DIGBY & Co. (G. Millard Barnes) are removing on the 1st December, 1930, from 104, Victoria-street, Westminster, S.W.1, to 24, Ryder-street, St. James'-street, S.W. Telephone Nos. Gerrard 2626/2627.

RENT RESTRICTION ACT.

TO CONTINUE FOR A YEAR.

In pursuance of their intention not to interfere with the law relating to rent restriction until the question has been reported upon by a committee recently appointed, the Government have included the Increase of Rent and Mortgage Interest (Restriction) Act, 1920, in the Expiring Laws Continuance Bill, which will be passed before the end of this year.

This means that the Act will continue in force in England until 25th December, 1931, and in Scotland until 28th May, 1932.

WILL MADE ON BACK OF MAP.

Mr. John Alfred Matthews, of 119, East-street, Walworth, S.E., and of 5, Victoria House, Blendon-road Walworth, S.E., tobacconist, confectioner and newsagent, who died at Camberwell Hospital on 1st October last, made his will on the back of a section torn from a London road-map.

The document is in order, and probate has been granted to his widow, Mrs. Daisy Matthews, to whom he left all of his property. The will was made on 8th June last, and the property is valued at £499.

The Lord Chancellor announces that the offices of the Supreme Court will be closed on Saturday, 27th December.

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON

DATE	EMERGENCY ROTA	APPEAL COURT No. 1	GROUP I. Mr. JUSTICE EVE. Witness. Part II.	Mr. JUSTICE MAUGHAM. Witness. Part I.
M'nd'y Dec. 1	Mr. Jolly	Mr. More	Mr.*Ritchie	Mr.*Jolly
Tuesday .. 2	Hicks Beach	Ritchie	*Blaker	Ritchie
Wednesday 3	Blaker	Andrews	*Jolly	*Blaker
Thursday .. 4	More	Jolly	Ritchie	Jolly
Friday 5	Ritchie	Hicks Beach	Blaker	*Ritchie
Saturday .. 6	Andrews	Blaker	Jolly	Blaker

DATE	GROUP I. Mr. JUSTICE BENNETT Non-Witness.	Mr. JUSTICE CLAUSON. Witness. Part I.	GROUP II. Mr. JUSTICE LUXMOORE. Non-Witness.	Mr. JUSTICE FARWELL. Witness. Part II.
M'nd'y Dec. 1	Mr. Blaker	Mr. More	Mr. Andrews	Mr.*Hicks Beach
Tuesday .. 2	Jolly	*Hicks Beach	More	*Andrews
Wednesday 3	Ritchie	Andrews	Hicks Beach	*More
Thursday .. 4	Blaker	*More	Andrews	Hicks Beach
Friday 5	Jolly	Hicks Beach	More	*Andrews
Saturday .. 6	Ritchie	Andrews	Hicks Beach	More

* The Registrar will be in Chambers on these days, and also on the days when the Courts are not sitting.

The CHRISTMAS VACATION will commence on Wednesday, the 24th day of December, 1930, and terminate on Tuesday, the 6th day of January, 1931, inclusive.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (1st May, 1930) 3%. Next London Stock Exchange Settlement Thursday, 4th December, 1930.

	Middle Price 26th Nov. 1930.	Flat Interest Yield.	Approximate Yield with redemption.
English Government Securities.		£ s. d.	£ s. d.
Conso's 4% 1957 or after	93	4 6 0	—
Consols 2½%	58¾	4 5 1	—
War Loan 5% 1929-47	103	4 17 1	—
War Loan 4½% 1925-45	101	4 9 1	4 8 0
War Loan 4% (Tax free) 1929-42	100¾	3 19 8	3 18 6
Funding 4% Loan 1960-90	95	4 4 3	4 4 6
Victory 4% Loan (Available for Estate Duty at par) Average life 35 years	97	4 2 6	4 3 3
Conversion 5% Loan 1944-64	106½	4 14 1	4 12 9
Conversion 4½% Loan 1940-44	101xd	4 9 1	4 8 0
Conversion 3½% Loan 1961	82	4 5 4	—
Local Loans 3% Stock 1912 or after	69	4 6 11	—
Bank Stock	270½	4 8 9	—
India 4½% 1950-55	88	5 2 3	5 7 6
India 3½%	65	5 7 8	—
India 3%	56	5 7 2	—
Sudan 4½% 1939-73	99	4 10 11	4 11 0
Sudan 4% 1974	90	4 8 11	4 10 6
Transvaal Government 3% 1923-53 (Guaranteed by British Government, Estimated life 15 years.)	84½	3 11 0	4 1 0
Colonial Securities.			
Canada 3% 1938	93	3 4 6	4 2 0
Cape of Good Hope 4% 1916-36	97	4 2 6	4 11 6
Cape of Good Hope 3½% 1929-49	87	4 0 6	4 11 0
Ceylon 5% 1960-70	102	4 18 0	4 17 9
Commonwealth of Australia 5% 1945-75	85½	5 17 0	5 18 9
Gold Coast 4½% 1956	95	4 14 9	4 17 0
Jamaica 4½% 1941-71	96	4 13 9	4 14 6
Natal 4% 1937	97	4 2 6	4 11 9
New South Wales 4½% 1935-45	75½	5 19 2	7 5 0
New South Wales 5% 1945-65	78	6 8 2	6 12 6
New Zealand 4½% 1945	98	4 11 5	4 14 0
New Zealand 4% 1946	104	4 16 2	4 15 9
Nigeria 5% 1950-60	104	4 16 2	4 15 0
Queensland 5% 1940-60	79½	6 5 9	6 6 8
South Africa 5% 1945-75	104	4 16 2	4 15 6
South Australia 5% 1945-75	82½	6 1 3	6 3 3
Tasmania 5% 1945-75	84½	5 18 4	6 0 0
Victoria 5% 1945-75	81½	6 2 8	6 4 9
West Australia 5% 1945-75	81½	6 2 8	6 4 9
Corporation Stocks.			
Birmingham 3% on or after 1947 or at option of Corporation	67	4 9 7	—
Birmingham 5% 1946-56	105	4 15 3	4 13 6
Cardiff 5% 1945-65	102	4 18 0	4 17 6
Croydon 3% 1940-60	75	4 2 2	4 11 0
Hastings 5% 1947-67	105	4 15 3	4 14 3
Hull 3½% 1925-55	83	4 4 4	4 13 6
Liverpool 3½% Redeemable by agreement with holders or by purchase	78	4 13 4	—
London City 2½% Consolidated Stock after 1920 at option of Corporation	57	4 7 9	—
London City 3% Consolidated Stock after 1920 at option of Corporation	68	4 8 3	—
Manchester 3% on or after 1941	67	4 9 7	—
Metropolitan Water Board 3% "A" 1963-2003	68	4 8 3	—
Metropolitan Water Board 3% "B" 1934-2003	69	4 6 11	—
Middlesex C.C. 3½% 1927-47	86	4 1 5	4 14 0
Newcastle 3½% Irredeemable	75	4 13 4	—
Nottingham 3% Irredeemable	66	4 10 11	—
Stockton 5% 1946-66	104	4 16 2	4 15 3
Wolverhampton 5% 1946-56	104	4 16 2	4 14 6
English Railway Prior Charges.			
Gt. Western Rly. 4% Debenture	85	4 14 2	—
Gt. Western Rly. 5% Rent Charge	102	4 18 0	—
Gt. Western Rly. 5% Preference	95½	5 4 9	—
L. & N.E. Rly. 4% Debenture	79	5 1 3	—
L. & N.E. Rly. 4% 1st Guaranteed	75⅛	5 6 0	—
L. & N.E. Rly. 4% 1st Preference	57⅜	6 19 2	—
L. Mid. & Scot. Rly. 4% Debenture	82	4 17 7	—
L. Mid. & Scot. Rly. 4% Guaranteed	79	5 1 3	—
L. Mid. & Scot. Rly. 4% Preference	65	6 3 1	—
Southern Railway 4% Debenture	85	4 14 2	—
Southern Railway 5% Guaranteed	101½	4 18 6	—
Southern Railway 5% Preference	92	5 8 8	—